

1	ARTICLE IV: USE REGULATIONS	IV-1
2	78-400 TABLE OF PRINCIPAL PERMITTED AND ALLOWED USES	IV-1
3	(A) Explanation of Table	IV-1
4	(1) Organization of Table 78-400, <i>Table of Principal Permitted and Allowed Uses</i>	IV-1
5	(2) Permitted Uses	IV-1
6	(3) Special Exception Uses	IV-1
7	(4) Allowed Uses in Planned Developments	IV-1
8	(5) Prohibited Uses	IV-1
9	(6) Additional Use-Specific Standards	IV-2
10	(7) Unlisted Uses	IV-2
11	(B) Table of Principal Permitted and Allowed Uses	IV-4
12	78-401 PRINCIPAL USES: CATEGORIES AND TYPES	IV-8
13	(A) General	IV-8
14	(1) Purpose	IV-8
15	(2) Structure of this Section	IV-8
16	(3) Developments with Multiple Principal Uses	IV-8
17	(B) Residential Use Category	IV-8
18	(1) Characteristics	IV-8
19	(2) Examples	IV-8
20	(3) Similar Use Types Not in this Category	IV-8
21	(4) Specific Standards for Residential Uses	IV-9
22	(C) Education Use Category	IV-13
23	(1) Characteristics	IV-13
24	(2) Examples	IV-13
25	(3) Similar Use Types Not in this Category	IV-14
26	(4) Standards	IV-14
27	(D) Government Facilities Use Category	IV-15
28	(1) Characteristics	IV-15
29	(2) Examples	IV-15
30	(3) Similar Use Types Not in this Category	IV-15
31	(4) Standards	IV-15
32	(E) Institutional and Community Service Use Category	IV-15
33	(1) Characteristics	IV-15
34	(2) Examples	IV-15
35	(3) Similar Use Types Not in this Category	IV-16
36	(4) Standards	IV-16
37	(F) Eating Establishments Use Category	IV-17
38	(1) Characteristics	IV-17
39	(2) Examples	IV-17
40	(3) Similar Use Types Not in this Category	IV-17
41	(4) Standards	IV-17
42	(G) Office Use Category	IV-17
43	(1) Characteristics	IV-17
44	(2) Examples	IV-17

1	(3)	Similar Use Types Not in this Category	IV-18
2	(4)	<i>Standards</i>	IV-18
3	(H)	Indoor Entertainment Use Category	IV-18
4	(1)	Characteristics	IV-18
5	(2)	Examples	IV-18
6	(3)	Similar Use Types Not in this Category	IV-18
7	(4)	<i>Standards</i>	IV-18
8	(I)	Outdoor Entertainment Use Category.....	IV-19
9	(1)	Characteristics	IV-19
10	(2)	Examples	IV-19
11	(3)	Similar Use Types Not in this Category	IV-19
12	(4)	<i>Standards</i>	IV-19
13	(J)	Personal Services and Retail Sales Use Category	IV-19
14	(1)	Characteristics	IV-19
15	(2)	Examples	IV-19
16	(3)	Similar Use Types Not in this Category	IV-20
17	(4)	<i>Standards</i>	IV-21
18	(K)	Vehicle Sales and Service Use Category.....	IV-22
19	(1)	Characteristics	IV-22
20	(2)	Examples	IV-22
21	(3)	Similar Use Types Not in this Category	IV-22
22	(4)	<i>Standards</i>	IV-22
23	(L)	Lodging Businesses Use Category.....	IV-24
24	(1)	Characteristics	IV-24
25	(2)	Examples	IV-24
26	(3)	<i>Standards</i>	IV-24
27	(M)	Commercial Utilities Use Category	IV-24
28	(1)	Characteristics	IV-24
29	(2)	<i>Examples</i>	IV-24
30	(3)	<i>Similar Use Types Not in this Category</i>	IV-24
31	(4)	<i>Standards</i>	IV-24
32	(N)	Industrial Service Use Category.....	IV-25
33	(1)	Characteristics	IV-25
34	(2)	Examples	IV-26
35	(3)	Similar Use Types Not in this Category	IV-26
36	(4)	<i>Standards</i>	IV-26
37	(O)	Light Manufacturing Use Category	IV-27
38	(1)	Characteristics	IV-27
39	(2)	Examples	IV-27
40	(3)	Similar Use Types Not in this Category	IV-27
41	(4)	<i>Standards</i>	IV-27
42	(P)	Self-Service Storage Use Category.....	IV-28
43	(1)	Characteristics	IV-28
44	(2)	Accessory Uses	IV-28
45	(3)	Examples	IV-28
46	(4)	Similar Use Types Not in this Category	IV-28
47	(5)	<i>Standards</i>	IV-28
48	(Q)	Transportation and Parking Category	IV-29
49	(1)	Characteristics	IV-29

1	(2)	Examples	IV-30
2	(3)	Similar Use Types Not in this Category	IV-30
3	(4)	Standards.....	IV-30
4	(R)	Warehousing Use Category	IV-31
5	(1)	Characteristics	IV-31
6	(2)	Examples	IV-31
7	(3)	Similar Use Types Not in this Category	IV-31
8	(4)	Standards.....	IV-31
9	(S)	Wholesale Sales Use Category.....	IV-32
10	(1)	Characteristics	IV-32
11	(2)	Examples	IV-32
12	(3)	Similar Use Types Not in this Category	IV-32
13	(4)	Standards.....	IV-32
14	78-402	ACCESSORY USES AND STRUCTURES.....	IV-33
15	(A)	Purpose and Intent.....	IV-33
16	(B)	General Accessory Use and Structure Standards.....	IV-33
17	(1)	Compliance with Ordinance Requirements.....	IV-33
18	(2)	Time of Establishment.....	IV-33
19	(3)	General Conditions	IV-33
20	(C)	Permitted and Allowed Accessory Uses	IV-33
21	(1)	Explanation of Table of Permitted and Allowed Accessory Uses	IV-33
22	(2)	Other Approvals	IV-35
23	(3)	Table of Permitted and Allowed Accessory Uses	IV-35
24	(D)	Accessory Structures in Residential Districts	IV-37
25	(1)	Location.....	IV-37
26	(2)	Maximum Height	IV-37
27	(3)	Maximum Floor Area.....	IV-37
28	(4)	Residential Occupancy	IV-37
29	(5)	Temporary Accessory Structures.....	IV-37
30	(6)	Required Approvals.....	IV-37
31	(E)	Accessory Structures in Multi-Family and Nonresidential Districts	IV-38
32	(1)	General Requirements	IV-38
33	(2)	Location.....	IV-38
34	(3)	Maximum Height	IV-38
35	(4)	Maximum Floor Area.....	IV-38
36	(5)	Temporary Accessory Uses and Structures	IV-38
37	(F)	Restricted or Prohibited Accessory Uses	IV-38
38	(6)	Prohibited in All Zoning Districts	IV-38
39	(7)	Restricted in Residential Zoning Districts	IV-39
40	(G)	Standards for Specific Accessory Uses and Structures	IV-39
41	(1)	Accessory Dwelling Unit.....	IV-39
42	(2)	Accessory Food Preparation Area	IV-40
43	(3)	Antennae of all Kinds, Except Commercial Communication Antennae	IV-40
44	(4)	Bed and Breakfast Establishment.....	IV-41
45	(5)	Car/Vehicle Rental Accessory to Hotels, Motels, Inns and Conference Centers	IV-43
46	(6)	Car/Vehicle Wash Accessory to Other Automotive Uses	IV-44
47	(7)	Caretaker's or Security Guard's Residence.....	IV-44
48	(8)	Daycare Center, Childcare Center or Pre-School as an Accessory Use to a Principal Commercial	

1		Use or as an Accessory Use in a Planned Development – Residential District	IV-44
2	(9)	Drive-Through Service Accessory to a Retail Pharmacy, Financial Institution, Laundry, Eating	
3		Establishment or other Principal Commercial Use	IV-45
4	(10)	Financial Institutions.....	IV-46
5	(11)	Home-Based Businesses including Daycare or Childcare	IV-46
6	(12)	Keeping of Livestock.....	IV-51
7	(13)	Minor Utilities.....	IV-51
8	(14)	Outdoor Seating Area of 25 Seats or Fewer, Accessory to an Enclosed Restaurant with Indoor	
9		Seating	IV-51
10	(15)	Outdoor Seating Area of more than 25 Seats, Accessory to an Enclosed Restaurant with Indoor	
11		Seating	IV-51
12	(16)	Outdoor Storage as an Accessory Use.....	IV-52
13	(17)	Outdoor Display of Products for Sale.....	IV-52
14	(18)	Parapets, Penthouses for Equipment, Flagpoles, Chimneys, Skylights, Steeples and Other Roof	
15		Structures.....	IV-53
16	(19)	Recreational vehicles	IV-53
17	(20)	School Uses in Conjunction with Religious Institutions	IV-53
18	(21)	Social Service and Similar Community Service Uses.....	IV-54
19	(22)	Features such as fences, walls, retaining walls, gate houses, trash enclosures, refuse containers,	
20		screening enclosures, storage sheds, and swimming pools.....	IV-54
21	78-403	TEMPORARY USES AND STRUCTURES.....	IV-55
22	(A)	Purpose	IV-55
23	(B)	Table of Allowed Temporary Uses and Structures.....	IV-55
24	(C)	Temporary Use Permits.....	IV-58
25	(1)	Procedure.....	IV-58
26	(2)	Expiration	IV-58
27	(3)	Revocation	IV-58
28	(4)	Waiver	IV-58
29	(5)	Amendment.....	IV-58
30	(D)	No Temporary Use Permit Required	IV-59
31	(E)	Prohibited Temporary Uses in Public Rights of Way and on Other Town Property	IV-62
32	(F)	General Standards for All Temporary Uses and Structures That Require a Permit	IV-62
33	(G)	Specific Standards for Certain Temporary Uses and Structures	IV-63
34	(1)	Temporary Office Facilities	IV-63
35	(2)	Construction-related Activities	IV-64
36	(3)	Outdoor Retail Sales Events Associated with an Existing Business	IV-64
37	(4)	Seasonal Sales	IV-65
38	(5)	Other Special Events Requiring a Temporary Use Permit	IV-65
39	(6)	Temporary assembly site for day workers	IV-66

ARTICLE IV: USE REGULATIONS

78-400 TABLE OF PRINCIPAL PERMITTED AND ALLOWED USES

Table 78-400, *Table of Principal Permitted and Allowed Uses*, sets forth the uses permitted within the general use zoning districts.

(A) Explanation of Table

(1) Organization of Table 78-400, *Table of Principal Permitted and Allowed Uses*

Table 78-400, *Table of Principal Permitted and Allowed Uses*, organizes the uses by Principal Uses: Categories and Types and shows the zoning district classifications where various uses are permitted or allowed.

a. Use Categories

The Use Categories describe the major types of uses, based on common characteristics. The common characteristics of each Use Category are identified in Section 78-401, *Principal Uses: Categories and Types*.

b. Use Types

The Use Categories are divided into specific Use Types that identify the principal uses considered to fall within characteristics identified in the Use Category. Use Types are defined in more detail in Article VII: *Definitions*.

(2) Permitted Uses

A "P" in a cell indicates that a Use Category or Use Type is permitted by right in the respective zoning district, subject to compliance with the use-specific standards set forth in the final column of the Table of Principal Permitted and Allowed Uses. Permitted uses are subject to all other applicable regulations of this Chapter, including those set forth in Article V: *Development Standards*.

(3) Special Exception Uses

An "SE" in a cell indicates that a Use Type is permitted by special exception in the respective zoning district, subject to compliance with the use-specific standards listed in the final column of Table 78-400, *Table of Principal Permitted and Allowed Uses*, and approval of a Special Exception (Section 78-202(C)). It shall be unlawful to conduct a use requiring a special exception without proper approval of a special exception application.

(4) Allowed Uses in Planned Developments

An "A" in a cell indicates that a Use Type is an allowed use in the respective planned development district, subject to approval as a planned development district (Section 78-202(A)).

(5) Prohibited Uses

A use not specifically allowed in this chapter is prohibited, except in accord with Section 78-400(A)(7), Unlisted Uses. A blank cell indicates that the use type is prohibited in the zoning district. See also Section 78-402, Accessory Uses and Structures, and Section 78-403, Temporary Uses and Structures.

(6) Additional Use-Specific Standards

Regardless of whether a Use Category is permitted by right, permitted as a special exception, or allowed in a planned development, there may be additional regulations that are applicable to a specific use. Within this Article is Section 78-401, *Principal Uses: Categories and Types*, which applies to all zoning districts unless otherwise specified. Other standards appear elsewhere in Article IV for accessory uses and temporary uses, in Article II for procedures for approval, in Article III for dimensional standards and planned development standards, Article V, *Development Standards*, and perhaps other sections of the Herndon Town Code. It is the applicant's responsibility to ensure that all published rules, regulations, and standards have been captured in any application submitted for approval.

(7) Unlisted Uses

(a) Procedure for Approving Unlisted Uses

Where a particular Use Type is not specifically listed in Table 78-400, *Table of Principal Permitted and Allowed Uses*, the Zoning Administrator may permit the Use Type upon finding the standards of Section 78-401(A)(7)(b), *Standards for Approving Unlisted Uses*, are met. The request shall be treated as an Interpretation pursuant to Section 78-202(L), *Determinations*. The Zoning Administrator shall give due consideration to the intent of this Chapter concerning the zoning district(s) involved, the character of the uses specifically identified, and the character of the use(s) in question. Based on these considerations, the Zoning Administrator may find that the proposed use is not permitted in any district.

By contrast, where a particular use is specifically listed in one district in Table 78-400, *Table of Principal Permitted and Allowed Uses*, and a blank cell is shown in a second district, the use is considered specifically prohibited in the second district, and the Zoning Administrator may not permit the use.

(b) Standards for Approving Unlisted Uses

To determine that the proposed use(s) has an impact that is similar in nature, function, and duration to the other listed Use Types permitted in a specific zoning district, the Zoning Administrator shall assess all relevant characteristics of the proposed use, including but not limited to the following:

1. The volume and type of sales, retail, wholesale; size and type of items sold and nature of inventory on the premises;
2. Any processing done on the premises, including assembly, manufacturing, warehousing, shipping, distribution; any dangerous, hazardous, toxic, or explosive materials used in the processing;
3. The nature and location of storage and outdoor display of merchandise; enclosed, open, inside, or outside the principal building; and predominant types of items stored (such as business vehicles, work-in-process, inventory, and merchandise, construction materials, scrap and junk, and raw materials including liquids and powders);
4. The type, size, and nature of buildings and structures normally occupied by the use or by similar uses;
5. The number and density of employees and customers per unit area of site in relation to business hours and employment shifts;
6. Transportation requirements, including the modal split for autos and freight, by volume type and characteristic of traffic generation to and from the site, trip purposes and whether trip purposes can be shared by other Use Types on the site;

7. Parking requirements, turnover and generation, ratio of the number of spaces required per unit area or activity, and the potential for shared parking with other Use Types;
8. The amount and nature of any effects generated on the premises, including but not limited to noise, smoke, odor, glare, vibration, radiation, and fumes;
9. Any special public utility requirements for serving the proposed use, including but not limited to water supply, waste water output, pre-treatment of wastes and emissions required or recommended, and any significant power structures and communications towers or facilities;
10. The impact on adjacent properties created by the proposed use in relation to other uses in the zoning district.
11. Other sources deemed appropriate by the zoning administrator, such as commonly accepted periodicals, publications by the American Planning Association, and other planning reference books.
12. Notice of violation: when the question of the unlisted use arises as a result of a violation, the notice of violation shall be construed to be the zoning administrator's determination that the use is not approved.

(c) *Effect of Determination by the Zoning Administrator*

In making a determination whether or not to approve an unlisted use, the Zoning Administrator's determination shall be binding on all officers, employees and departments of the Town.

(B) Table of Principal Permitted and Allowed Uses**Table of Principal Permitted and Allowed Uses**

(see also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)

*Notes:**1. P = use permitted in the zoning district**2. SE – use permitted only by special exception (see also Section 78-202(C))**3. A = uses permitted in planned development district when approved as part of a zoning map amendment**4. Any principal use allowed or permitted by right in this table is permitted by Special Exception in the Floodplain Overlay District, in accordance with Section 78-304(B)(4)(a)*

		RESIDENTIAL				BUSINESS				PLANNED DEVELOPMENT		
USE CATEGORY	USE TYPE	R-15	R10	RTC	RM	CCD	CS	CO	O&LI	PD-R	PD-B	PD-D
Residential	Single family detached dwelling	P	P							A		A
	Duplex Dwelling			P						A		A
	Townhouse dwelling			P	P					A		A
	Townhouse rental residential development			P	P					A		
	Quadruplex dwelling				P					A		A
	Multi-family dwelling (including residential rental townhouses)				P					A		A
	Housing for the elderly				P	P				A		A
	Assisted Living for the Elderly and Persons with Disabilities				P					A		A
	Group home	P	P	P	P					A		A
Education	Childcare Center, Daycare Center or Preschool	SE	SE			SE		SE	SE	A	A	A
	Post Secondary Education and Career Schools							SE	SE		A	
	School, public or private (K-12)	SE	SE					SE		A	A	A
Government Facilities	Government buildings, facilities and uses not otherwise categorized	SE	SE	SE	SE	SE	SE	SE	SE	A	A	A
	Cemetery	SE	SE									
	Community centers	SE	SE	SE	SE	SE		SE		A	A	A
	Convalescent home							SE			A	
	Hospital						SE	SE	SE		A	
	Library	SE	SE			P	P			A	A	A
	Museum, Fine Arts Center					P		SE	SE		A	A

Table of Principal Permitted and Allowed Uses

(see also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)

Notes:

1. P = use permitted in the zoning district

2. SE – use permitted only by special exception (see also Section 78-202(C))

3. A = uses permitted in planned development district when approved as part of a zoning map amendment

4. Any principal use allowed or permitted by right in this table is permitted by Special Exception in the Floodplain Overlay District, in accordance with Section 78-304(B)(4)(a)

		RESIDENTIAL				BUSINESS				PLANNED DEVELOPMENT		
USE CATEGORY	USE TYPE	R-15	R10	RTC	RM	CCD	CS	CO	O&LI	PD-R	PD-B	PD-D
Institutional and Community Service Uses	Religious institution, with a capacity of 300 or fewer persons gathered for religious observance in, with or without any accessory schools, daycare centers, or recreational facilities	SE	SE					SE	SE	A	A	
	Religious institution, with a capacity of more than 300 persons gathered for religious observance , with or without accessory schools, daycare centers, or recreational facilities	SE	SE							A	A	
	Senior center	SE	SE			P				A	A	A
	Social service and similar community service uses					P	=	P	P	=	A	A
Eating Establishments	Restaurant					P	P	SE	SE		A	A
	Drive-In Restaurant [not drive-through window service]						SE					
Offices	All office uses, excluding any medical or health related services (see "health care facility")					P	P	P	P	A	A	A
Indoor Entertainment	Commercial recreation/ entertainment, indoor					SE	P		SE		A	A
Outdoor Entertainment	Commercial recreation/ entertainment, outdoor								SE		A	
	Private swimming pools and Tennis Courts	SE	SE									
Personal Services and Retail Sales	Animal hospital, Kennel, Pet Daycare, Animal Shelter, and Veterinary Clinic						P	SE	SE	A	A	
	Artist's studio or gallery					P	P	P	P	A	A	A
	Dry-cleaning/laundry drop-off and pick-up without on-site cleaning, laundromats					SE	P	SE	P	A	A	A
	Durable goods sales						P		SE		A	
	Financial institution					P	P	P	P		A	A

Table of Principal Permitted and Allowed Uses

(see also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)

Notes:

1. P = use permitted in the zoning district

2. SE – use permitted only by special exception (see also Section 78-202(C))

3. A = uses permitted in planned development district when approved as part of a zoning map amendment

4. Any principal use allowed or permitted by right in this table is permitted by Special Exception in the Floodplain Overlay District, in accordance with Section 78-304(B)(4)(a)

		RESIDENTIAL				BUSINESS				PLANNED DEVELOPMENT		
USE CATEGORY	USE TYPE	R-15	R10	RTC	RM	CCD	CS	CO	O&LI	PD-R	PD-B	PD-D
	Funeral home					P						
	Health Care Facility					P	P	P	P	A	A	A
	Health care laboratory					P	P	P	P		A	
	Mailing and packing service					SE	P	SE	P		A	A
	Personal services, general					P	P	SE		A	A	A
	Pharmacy					P	P	P			A	A
	Product repair and services					P	P	SE	P		A	A
	Retail sales					P	P	SE			A	A
	School of Special Instruction					SE	P	SE	P	A	A	A
	Other Personal Services and Retail Sales uses					P	P	SE			A	A
Vehicle Sales and Services	Vehicle rental and sales as a principal use						SE		SE			
	Vehicle repair; transmission and muffler shops, sales of vehicle parts and tires						SE		SE			
	Vehicle full service wash and detailing						SE		SE			
	Recreational vehicle rental and sales						SE		SE			
	Vehicle fuel sales with or without convenience store						SE		SE			
Lodging Businesses	Conference center, hotel, motel, inn, boarding house, rooming house						SE		SE		A	A
Commercial Utilities	Commercial communication tower, freestanding								SE		A	
	Electrical substation						SE		SE		A	
	Telecommunication switching station						SE		SE		A	

Table of Principal Permitted and Allowed Uses

(see also Table of Permitted and Allowed Accessory Uses and Table of Allowed Temporary Uses and Structures)

Notes:

1. P = use permitted in the zoning district

2. SE – use permitted only by special exception (see also Section 78-202(C))

3. A = uses permitted in planned development district when approved as part of a zoning map amendment

4. Any principal use allowed or permitted by right in this table is permitted by Special Exception in the Floodplain Overlay District, in accordance with Section 78-304(B)(4)(a)

		RESIDENTIAL				BUSINESS				PLANNED DEVELOPMENT		
USE CATEGORY	USE TYPE	R-15	R10	RTC	RM	CCD	CS	CO	O&LI	PD-R	PD-B	PD-D
	Utility-related maintenance and storage yards						SE		SE			
Industrial Service	Dry cleaning or laundry plants						SE		SE		A	
	Scientific research and scientific development								P		A	
	All other industrial service uses								SE		A	
Light Manufacturing	Uses Involving Freight Delivery, Storage, Mass Production and Transporting of Finished Products								SE			
	All Other Light manufacturing uses								P		A	
Self-Service Storage	Self-service storage uses								SE		A	
Transportation and Parking	Bus maintenance facility for public bus service								SE			
	Parking Facility, commercial, permanent					SE	SE	SE	SE		A	A
Warehousing	Electronic warehousing						SE		P		A	
	Warehouse (storage)								SE		A	
Wholesale Sales	Contractor's materials								SE		A	
	Wholesale establishment								SE		A	

78-401 PRINCIPAL USES: CATEGORIES AND TYPES

(A) General

(1) Purpose

As described above in Section 78-400, the Table of Principal Permitted and Allowed Uses organizes land uses into groups called “use categories” and lists specific “use types.” Standards are provided in this section for both “use categories” and “use types”. Additional standards throughout this chapter may apply, such as in Article III, *Zoning Districts*, or Article V, *Development Standards*.

(2) Structure of this Section

This section describes each Use Category in the Table of Principal Permitted and Allowed Uses (Table 78-400.) Within each Use Category, the “Characteristics” section describes characteristics of the category. Principal uses are assigned to the category that most closely describes the nature of the principal use. Also listed are examples of accessory uses, which, unless otherwise stated in this Chapter, are permitted in conjunction with a principal use and are subject to the same regulations as the principal use. Another section, “Examples,” lists examples of uses included in the respective Use Category. The examples are based on common terms and not on what a specific use may call itself. For example, a use that calls itself “Wholesale Sales,” but sells mostly to consumers, is included in the *Personal Services and Retail Sales* category rather than the *Wholesale Sales* category. This is because the activity on the site matches the characteristics of the *Personal Services and Retail Sales* category. Another section, “Specific Use Standards,” provides standards for Use Types. Definitions for Use Types are found in Article VII: *Definitions*.

(3) Developments with Multiple Principal Uses

When all principal uses of a development fall within one Use Category, the entire development is assigned to that Use Category. A development that contains a coffee shop, bookstore, and bakery, for example, would be in the category of *Personal Services and Retail Sales* category because all of the development’s principal uses are in that category. When the principal uses of a development fall within different Use Categories, each principal use is classified in the applicable category and each use is subject to applicable regulations within that category. Developments with multiple principal uses, such as shopping centers, shall incorporate only those uses permitted in the underlying zoning district.

(B) Residential Use Category

(1) Characteristics

The *Residential* Use Category is characterized by the residential occupancy of a dwelling or residential facility by an individual or a household meeting the definition of a family. Tenancy is arranged on a month-to-month or longer basis.

(2) Examples

Example Use Types include single family detached dwellings, duplex dwellings, multi-family dwellings, assisted living for the elderly or persons with disabilities, or townhouse dwellings. Group homes are also included as described in the Code of Virginia, Section 15.2-2291.

(3) Similar Use Types Not in this Category

(a) Transient lodging is not permitted in the residential use category.

- (b) Transient lodging, including, hotels, motels, inns, conference centers, boarding houses and lodging houses, are in the Lodging Businesses Category.
- (c) Convalescent home is in the Institutional and Community Services Use Category.
- (d) Home-based businesses, including childcare in the home, are permitted as accessory uses that are subject to additional standards (see Section 78-402).
- (e) Bed and breakfast establishments are permitted as accessory uses subject to additional standards in 78-402(4) Bed and Breakfast Establishment.
- (f) Accessory Dwelling Units are permitted as accessory uses subject to additional standards (See Section 78-402), *Accessory Uses and Structures*.
- (g) Hotels, motels and inns are in the Lodging Businesses category and are not included in the Residential Use category.

(4) Specific Standards for Residential Uses

All uses shall comply with all applicable standards in this Chapter. In addition, the following standards shall apply, unless, in the judgment of the reviewing authority, exceptional circumstances warrant adjustment:

- (a) Single Family Detached Dwellings:
1. All lots shall have frontage on a public street.
 2. For Single Lot Development, see Section 78-202(F)(3)(~~f~~) and 78-513, for additional standards.
 3. For infill development on an existing block with detached dwellings on each adjacent lot along the street, the required setback shall be equivalent to the average of the existing building setback lines of the detached dwellings along the street and in the same block.
- (b) Developments Containing Multi-Family, Townhouse, Rental Townhouse Residential Development, Quadruplex and Duplex Dwellings:
1. Lot areas for townhouses shall not exceed 50 percent of the gross site acreage of the townhouse development.
 2. The height of buildings located within 100 feet of existing single family detached development or undeveloped land in a single family detached zoning district shall not exceed the maximum height permitted in the adjacent single family detached district.
 3. For infill development on an existing block with detached dwellings on each adjacent lot along the street, the required setback shall be equivalent to the average of the existing building setback lines of the detached dwellings on the adjacent lots.
 4. For multi-family uses, a maximum of 50 percent of off-street parking shall be provided within the setback.
 5. Townhouses and duplexes shall have a minimum area of 1,800 square feet of living space. Townhouses constructed or approved for construction prior to October 12, 1982 which are in conformance with all other regulations, shall not be deemed nonconforming if they have less than 1,800 square feet of gross area.

6. Each townhouse and duplex lot shall have frontage on a dedicated public street or on a 30-foot minimum width privately maintained public access easement which shall provide adequate vehicular and pedestrian access to the lot from a public street, as determined by the town using the standards in the Public Facilities Manual.
7. No more than 30 townhouse or duplex dwelling units shall be provided access to a public street by a single privately maintained roadway.
8. For townhouse and duplex dwellings not containing a rear yard driveway, both sides of rear yards shall be screened with a privacy fence or wall of six feet minimum height and extending not less than ten feet from the rear building wall. For such dwellings containing a rear yard driveway, the developer may or may not provide a privacy fence or wall of a height or location that does not adversely affect visibility clearance at the driveway's interface with the abutting public or private street.
9. No more than eight townhouses shall be included in one structure.
10. End unit townhouses shall have a minimum width of 24 feet.
11. Townhouses that are not end units shall have a minimum width of 22 feet.
12. No two abutting townhouses or duplexes shall have the same distance between the rear or side building façade and the rear or side property line, respectively, and the distance shall vary by a minimum of two feet.
13. No two abutting townhouses or duplexes shall have the same, or essentially the same, architectural facades and treatment of materials.
14. Primary building entrances shall be on the front facade of the building, except that townhouse end units shall have primary entrances on the sides.
15. Buildings which are 50 feet in length or greater shall incorporate wall offsets, a minimum of three feet in depth, a minimum of every 35 feet.
16. At least 20 percent of the façade facing a street shall consist of glazing (window surfaces, excluding doors and storm doors.)
17. Each multi-family development shall have frontage on a public street. Each multi-family development may have privately maintained driveways for internal circulation among the multi-family dwellings and between those buildings and the public street.
18. Garages for multi-family dwellings shall be designed where appropriate such that:
 - a. Garages shall be side- or rear-entry, and located to the side or rear of the buildings.
 - b. No side-entry garage door shall face any adjacent single family detached residential development.
19. The development shall be designed to be pedestrian-friendly and shall comply with the standards for Pedestrian Movement in Section 78-501(C)(2).
20. Garages for townhouse dwellings, rental townhouse developments, and duplexes shall be designed such that:
 - a. Driveways for individual units are a minimum length of 20 feet.
 - b. Driveways for individual units are accessed from internal streets or common driveways, and do not have direct access to a public street
 - c. Individual garage doors facing a public street shall not exceed 10 feet in width per door, and a maximum of two doors facing the street per dwelling unit, with a minimum separation of two feet between the doors.

- d. Structured parking in the RTC District is prohibited, other than garages attached to or incorporated in individual units.
- e. Attached garages with doors facing a public street:
- i. Shall be recessed at least two feet behind the front façade of the ground floor living area; or
 - ii. Shall not extend beyond the façade line of the living area of the unit if the garage is at least three feet behind a porch; or
 - iii. Shall not extend beyond the façade line of the living area of the unit if an upper story overhangs the ground floor living area façade by at least two feet; and
- ~~f. Detached garages with doors facing a public street shall be located at least four feet behind the front façade of the principal structure. (For the purposes of measurement, the front façade will be the front façade plane that is furthest from the front of the lot.)~~

(c) Housing for the Elderly:

1. All residents shall be adults, of which at least one resident in each unit is 62 years of age, or older. (Units occupied by persons employed by the housing management are not subject to this restriction).
2. Such housing shall be located so that shopping, health care, and recreational facilities are readily accessible, and adequate transportation to such facilities is available.
3. Accessory uses such as legal and health care offices, dental clinics, pharmacies, post offices, restaurants, cafeterias, hair salons, and other similar uses that serve residents are permitted.

(d) Dwelling Unit Occupancy

In any district in which residential uses are allowed or legally exist, a dwelling unit shall be occupied only by a family as defined in Article VII, *Definitions*. Occupancy by any other entity or person shall constitute a violation of this chapter.

1. Notwithstanding any other provision of this chapter, and as an element of the use of land under this chapter to define and limit appropriate family use of dwelling units, occupancy of dwelling units shall be limited to the maximum number of occupants allowed by this section, to protect against threats to neighborhood quality that can accompany overcrowding of land, or undue density of population in relation to existing or available community facilities caused by excessive occupancy.

For the purposes of this chapter, an "occupant" is defined as a person 18 years of age or older, living or sleeping in a building, or having possession of a space within a building. The maximum occupancy of dwelling units is as follows:

- a. For single family attached and detached dwellings or two-family dwellings, the maximum number of occupants of each dwelling unit shall not exceed the quotient of the floor area (measured in square feet) of the dwelling unit divided by the

number set forth below, rounded up to the next whole number:

- For a dwelling with a floor area up to 1,500 square feet, use 300 square feet.
- For a dwelling with a floor area from 1,501 square feet to 2,100 square feet, use 350 square feet.
- For a dwelling with a floor area from 2,101 square feet to 2,800 square feet, use 400 square feet.
- For a dwelling with a floor area from 2,801 square feet to 3,600 square feet, use 450 square feet.
- For a dwelling with a floor area greater than 3,601 square feet, use 500 square feet.

b. For multi-family dwellings, the maximum number of occupants of each dwelling unit shall not exceed the quotient of the floor area (measured in square feet) of the dwelling unit divided by 200, rounded to the nearest whole number.

2. An owner of a dwelling unit that occupies or allows the occupancy of a dwelling unit by a number of occupants in excess of the maximum occupancy prescribed shall forthwith lower the occupancy to a level consistent with the limits of this chapter.
3. An occupant of a dwelling unit occupied by a number of occupants in excess of the maximum occupancy here prescribed shall forthwith lower the occupancy to a level consistent with the limits of this chapter.
4. The town manager is authorized to investigate incidences of possible excessive occupancy in the town. In exercising the powers granted by this section, the town manager may inspect buildings according to the procedures set out in Code of Virginia, §§ Sections 19.2-393--19.2-397 (or some comparable, later provisions), with necessary changes, for administrative enforcement, or general law of this commonwealth for criminal enforcement.
5. Upon the town manager's conclusion that there exists excessive occupancy of a dwelling unit, the town manager, on behalf of the town, may seek an injunction to limit, lower or control the number of occupants in the dwelling unit.
6. This section address uses of land including occupancy of dwelling units under the town's zoning powers. Section 10-257, Herndon Town Code and the Virginia Uniform Statewide Building Code also address occupancy, but as a matter of building maintenance and health. In case of conflict between any of these sources, this section applies to questions of the use of land; as such application is determined by the zoning administrator. Section 10-257, Herndon Town Code or the Virginia Uniform Statewide Building Code applies to property maintenance or health issues; as such application is determined by the building official.

(e) Occupancy of Vehicles or Accessory Structures Not Allowed

Residential occupancy shall not be allowed in any accessory structure except under the provisions of Section 78-402(G)(1)(2), *Standards for Specific Accessory Uses and Structures, Accessory Dwelling Unit*. Under no circumstances is residential occupancy permitted in any shed, boat, tent, portable storage unit, recreational vehicle, or similar device.

(f) Establishment of Unauthorized Dwelling Units

Establishment of an unauthorized dwelling unit in any building or division of a dwelling unit is not permitted except in accordance with procedures for a change in use as authorized by the Town or unless an accessory dwelling unit has been approved through a special exception.

An unauthorized dwelling unit within a building shall be presumed to have been created when contiguous areas for living, sleeping, eating, cooking, and sanitation are designed in such a manner as to establish a distinct, separate, and self-contained living or housekeeping unit. The existence of any one of the following conditions shall be considered to be an unauthorized dwelling unit.

1. A secured internal access/connection is maintained that prevents full access to all of the common living areas (exclusive of private bedroom/bath areas) to all occupants of the dwelling unit.
2. More than one assigned address or more than one electric, water or gas meter serving the building.
3. Use of part of a previously approved dwelling unit for an additional dwelling unit providing complete, independent living facilities for a single family including provisions for living, sleeping, eating, or sanitation.

The Building Official and the Zoning Administrator may request additional administrative steps, such as the recording of a "Declaration of Use", when such steps are determined to be warranted by specific conditions, such as a separate exterior entry. The creation of a dwelling unit shall comply with all rules, regulations, ordinances and other requirements of the Town of Herndon. Building permits, inspections, and approvals are required for all building, electrical, mechanical, or plumbing work performed. Where a conflict arises between these standards and other requirements, the most restrictive shall govern.

(C) Education Use Category

(1) Characteristics

The *Education* Use Category is characterized by Use Types that include daycare, childcare, preschool, public and private schools at the elementary, middle, and high school level that provide state-mandated basic education. This Use Category also includes post secondary education and career schools that offer courses of general or specialized study leading to a degree. Accessory uses at schools include play areas, cafeterias, recreational and sport facilities, auditoriums, before- or after-school daycare, offices, food service, laboratories, health and sports facilities, theaters, meeting areas, parking, and maintenance facilities. See also Section 78-402, Accessory Uses and Structures.

(2) Examples

Example Use Types include public and private daytime schools that provide state-mandated education, colleges, universities, community colleges, nursing and medical schools not accessory to a hospital, seminaries, vocational schools, and business or trade schools.

(3) Similar Use Types Not in this Category

- (a)** Schools of Special Instruction are classified in the Personal Services and Retail Sales Use Category.
- (b)** Childcare centers, daycare centers or preschools operated in connection with an employment use, shopping center, or other principal use where children are cared for while parents or guardians are occupied on the premises or in the immediate vicinity constitute an accessory use subject to the standards of this section or Section 78-402(G) ~~(8)(8)~~.
- (c)** In-home daycare or childcare constitutes an accessory use subject to the standards of Section 78-402(G) ~~(10)(11)~~ *Home-Based Businesses including Daycare or Childcare*.

(4) Standards

All uses shall comply with all applicable standards in this Chapter. In addition, the following standards shall apply:

(a) All Uses:

The height of buildings located within 100 feet of existing residential development or undeveloped land in a residential zoning district shall not exceed the maximum height permitted for residential structures in the adjacent residential zoning district.

(b) Daycare Centers, Childcare Centers and Preschools as principal uses:

1. If not located in a stand-alone building: (a) be located on the first floor of a principal structure, and (b) be separated (including the restrooms) by a physical barrier from the remaining portion of the building in which it is located.
2. Include an outdoor recreation area with a minimum of 100 square feet for each child permitted, meeting the following standards:
 - a. Be enclosed by a fence which allows air and light to penetrate it and be capable of containing each child using the area;
 - b. Not be within a required building setback;
 - c. Not be closer than 15 feet to the edge of any public right-of-way; and
 - d. Not be within a parking area.
3. Design parking areas and vehicular circulation patterns to:
 - a. Enhance the safety of children as they arrive at and leave the facility.
 - b. Include a designated pickup and delivery area, providing at a minimum one stacking space per 20 children, and
4. Include parking spaces at a rate of one per employee plus one space per five children located adjacent to the childcare structure in such a way that visitors may avoid walking across vehicular travel ways to enter or exit the center.
5. Not conduct outdoor play activities before 8 a.m. or after 8 p.m.
6. All stacking lanes are located at least 10 feet from the principal building with either an on-site turnaround or separate points for ingress and egress.
7. Obtain all required approvals from the Fairfax County Health Department
8. Obtain all required approvals from the Fairfax County Fire Marshal.
9. Be licensed with the state commissioner of social services in accordance with Code of Virginia, Section 631-196, and comply with 22-VAC 15-30 and all other relevant state laws.

1 (c) **School Uses as Accessory to other uses such as institutions**

2 See Section 78-402, Accessory Uses and Structures.

3
4 (D) **Government Facilities Use Category**

5 (1) **Characteristics**

6 The *Government Facilities* Use Category is characterized by facilities owned
7 and operated, by an agency of local, regional, state or federal government,
8 including park-and-ride lots or structures, or public parking lots or public
9 shared parking lots as principal uses. Accessory uses include but are not
10 limited to maintenance, storage, and fueling facilities; and parking areas
11 associated with a principal use.

12 (2) **Examples**

13 Example Use Types include any government building, facility, park, golf
14 course, cemetery, public works yard, playground, parking facility, or use other
15 than office uses.

16 (3) **Similar Use Types Not in this Category**

17 (a) Offices for the conduct of government business are in the category of Offices.

18 (b) Regulated, privately-owned public utilities are in the category of Commercial
19 Utilities.

20 (c) Gas, electric, communications and other infrastructure services, are in the
21 category of Utilities.

22
23 (4) **Standards**

24 All uses shall comply with all applicable standards in this Chapter.

25
26 (E) **Institutional and Community Service Use Category**

27 (1) **Characteristics**

28 The *Institutions* Use Category is characterized by Use Types that provide a
29 variety of facilities, including those of a nonprofit or charitable nature providing
30 a local service to people of the community. Generally, this category provides
31 the service on-site or have employees at the site on a regular basis. The
32 service is ongoing, and not merely for special events. The category includes
33 community uses or facilities that have membership provisions that are open to
34 the general public to join at any time (for instance, any senior citizen could
35 join a senior center). The service is provided by a public benefit association
36 or non-profit organization. The use may provide special counseling,
37 education, recreation or training. The use includes buildings that primarily
38 provide meeting areas for religious activities; auditoriums; cemeteries, cultural
39 centers and facilities; hospitals, museums; care for the temporarily disabled;
40 and in-patient treatment programs. Accessory uses include offices, school
41 facilities, meeting rooms, food preparation and parking.

42 (2) **Examples**

43 Example Use Types include churches, temples, synagogues, and mosques;
44 libraries, cultural facilities, senior centers, community centers, youth club
45 facilities, and social service facilities; nursing or convalescent facilities;
46 hospices; rehabilitation centers; residential programs for drug and alcohol
47 treatment; and alternative or post incarceration facilities.

(3) Similar Use Types Not in this Category

1. Group home facilities or residential programs where individual units meet the definition of a dwelling unit in Article VII: *Definitions* are in the category of Residential Uses.
2. Recreation services are in the categories of Indoor or Outdoor Entertainment.
3. Health clubs are in the category of Personal Services and Retail Sales.
4. Parks are in the category of Parks and Open Space.

(4) Standards

All uses shall comply with all applicable standards in this Chapter. In addition, the following standards shall apply:

(a) All Uses:

The height of buildings located within 100 feet of existing single family detached development or undeveloped land in a single family detached zoning district shall not exceed the maximum height permitted in the adjacent single family detached district.

(b) Hospital:

1. Be located on an urban minor arterial street or higher street classification.
2. The height of buildings located within 100 feet of existing single family attached or detached development or undeveloped land in a single family attached or detached zoning district shall not exceed the maximum height permitted in the adjacent single family district.

(c) Religious Institutions:

1. Ensure any child daycare center associated with the religious institution complies with the standards of Section 78-402(G)(7)(8).
2. Ensure any school (public or private) associated with the religious institutions complies with the standards of Section 78-402(G)(19)(20), *School Uses in Conjunction with Religious Institutions*.
3. Provide a landscaped buffer a minimum of 15 feet in width along the yard(s) adjacent to lands on which there is existing single family detached development and adjacent to undeveloped land in single family attached and detached residential districts.
4. The Town Council shall have the authority to grant waivers to any of the standards listed in this Section to respond to an applicant's justifiable claim that the standards pose a substantial burden on religious exercise as guaranteed by the federal Religious Land Use and Institutionalized Persons Act of 2000 (42 USC §2000), as amended. In granting such a waiver, the Town Council may require conditions consistent with the federal act that will secure substantially the objectives of the standard and that will substantially mitigate any potential adverse impact on the environment or surrounding land uses.

~~**(d) Social Service and Similar Community Service Uses**~~

~~Outreach facilities that provide a direct service by not for profit organizations to clients are permitted as an accessory use in accordance with Section 78-402(G)(21), *Social Service and Similar Community Service Uses*.~~

(F) Eating Establishments Use Category

(1) Characteristics

This Use Category is characterized by establishments that sell prepared food for on- or off-premise consumption. Outdoor eating areas are permitted in accordance with Section 78-402(G) ~~(13)~~ **(14)** *Outdoor Seating Area of 25 Seats or Fewer, Accessory to an Enclosed Restaurant with Indoor Seating* and Section 78-402(G) ~~(14)~~ **(15)** *Outdoor Seating Area of more than 25 Seats, Accessory to an Enclosed Restaurant with Indoor Seating*. Drive through lanes associated with the eating establishment are permitted in accordance with Section 78-402(G) ~~(8)~~ **(9)** *Drive-Through Service Accessory to a Retail Pharmacy, Financial Institution, Laundry, Eating Establishment or other Principal Commercial Use*.

(2) Examples

Examples include restaurants, cafeterias, delicatessens, yogurt or ice cream shops, and coffee shops.

(3) Similar Use Types Not in this Category

- (a)** Eating establishments in private clubs are in the category of Indoor Entertainment as accessory uses when the eating establishment is not the principal use.
- (b)** Restaurants that are accessory to hotels, motels, and institutions are in the category of Lodging Businesses as accessory uses.
- (c)** Cafeterias on the site of a principal use in the category of Light Manufacturing, Industrial Service or Office are considered accessory uses.

(4) Standards

- (a)** All uses shall comply with all applicable standards in this Chapter.
- (b)** Uses shall be sufficiently insulated so no unreasonable noise or odor can be detected off-premises.
- (c)** Notwithstanding the provisions of Table 78-503, Landscape Buffer Classifications, if adjacent to existing single family detached development, uses shall provide a traditional landscaped screen, a minimum of 20 feet in width along the property line which the single family detached development abuts

(G) Office Use Category

(1) Characteristics

The *Office Use Category* includes activities that are conducted in an office setting and that generally focus on business, government, financial or other professional services. Accessory uses may include cafeterias, parking, or other amenities primarily for the use of employees in the firm or building.

(2) Examples

Example Use Types include business services establishments; professional service establishments such as lawyers, engineers, or architects; financial businesses such as accountants, brokerage houses, or real estate agents; data processing; sales offices; government and public utility offices; and broadcasting studios without on-site antennae.

(3) Similar Use Types Not in this Category

- (a)** Financial businesses that operate from financial institutions such as banks and credit unions are in the category of Personal Services and Retail Sales.
- (b)** Offices that are part of and located with a principal use in another Use Category are considered accessory to the firm's primary activity.
- (c)** Headquarters offices, when in conjunction with or adjacent to a principal use in another Use Category, are considered part of the other Use Category.
- (d)** Contractors and others who perform services off-site are included in the Office category if equipment and materials are not stored outside and fabrication, services, or similar work is not carried on at the site.
- (e)** Contractors' offices that include storage yards, fabrication or services on-site are in the category of Warehousing.
- (f)** Medical and dental offices or clinics, medical and dental labs, and blood-collection facilities are in the category of Personal Services and Retail Sales in Use Type "Health Care Facility" or "Health Care Laboratory."
- (g)** Communications towers associated with broadcasting studios are in the category of Utilities.
- (h)** Data warehouses are in the category of Warehousing.

(4) Standards

All uses shall comply with all applicable standards in this Chapter.

(H) Indoor Entertainment Use Category

(1) Characteristics

This Use Category is characterized by commercial uses that provide recreation or entertainment activities in an enclosed structure or structures. Accessory uses may include concessions, snack bars, restaurants, parking, and maintenance facilities.

(2) Examples

Example Use Types include private clubs, amusement arcades, billiards parlors, bowling alleys, dance floors, indoor skating rinks, commercial swimming pools (indoor), enclosed skating rinks, racquet and tennis club facilities (indoor), health clubs, auditoriums and theaters for live performances or pre-recorded performances.

(3) Similar Use Types Not in this Category

- (a)** A private club in which the principal use is a restaurant is in the category of eating establishment.
- (b)** Indoor recreational facilities that are reserved for use by residents of particular residential developments and their guests are accessory to those Residential Use Types.

(4) Standards

- (a)** Uses shall comply with applicable standards in this Chapter.
- (b)** Indoor Entertainment uses in the Herndon Downtown (designated in the Downtown Overlay as shown in the Herndon 2010 Comprehensive Plan (adopted June 19, 1990) as amended) shall be of a scale and impact harmonious with existing development and planning policy for the Herndon Downtown. Factors to be considered include traffic impact, parking availability, pedestrian access, peak period visitation for the proposed use and positive economic multipliers for existing downtown businesses.

(I) Outdoor Entertainment Use Category

(1) Characteristics

This Use Category is characterized by commercial uses that provide continuous recreation or entertainment-oriented activities. They primarily take place outdoors. They may take place in a number of structures that are arranged together in an outdoor setting. Accessory uses may include restaurants, bars, concessions, parking, and maintenance facilities.

(2) Examples

Examples include commercially owned and operated facilities such as archery ranges, ball fields, baseball hitting facilities, basketball courts, swimming pools, golf driving ranges, miniature golf facilities, or tennis facilities.

(3) Similar Use Types Not in this Category

(a) Banquet halls that are part of hotels or restaurants are accessory to those uses, which are included in the Lodging Businesses or Personal Services and Retail Sales categories, respectively.

(b) Publicly owned facilities are in the category of Government Facilities.

(c) Indoor continuous entertainment activities such as movie theaters, bowling alleys, game arcades, pool halls, dance halls, or indoor firing ranges are in the category of "Indoor Entertainment."

(d) Outdoor recreational facilities that are reserved for use by residents of particular residential developments and their guests are accessory to those residential uses.

(e) Temporary outdoor events are addressed in Section 78-403, *Temporary Uses and Structures*.

(4) Standards

All uses shall comply with all applicable standards in this Chapter.

(J) Personal Services and Retail Sales Use Category

(1) Characteristics

The *Personal Services and Retail Sales* Use Category is characterized by firms involved in providing personal services or the sale, lease, or rent of new or used products to the general public. They may also provide product repair or services for consumer and business goods. Accessory uses may include offices, storage of goods, or repackaging of goods for on-site sale and parking.

(2) Examples

Example Use Types include the following five groups:

(a) Retail Sales

Stores selling, leasing, or renting consumer, home, or business goods including art, art supplies, bicycles, clothing, convenience stores, decorator supplies, dry goods, electronic equipment, fabric, , home gardening supplies, gifts, groceries, hardware, home improvements, household products, jewelry sales and repair, pets, pet food, pharmaceuticals, plants, printer material, stationery, and videos; or food sales.

- (b) Durable Goods Sales**
Stores selling, leasing, or renting retail durable goods including major household appliances; furniture; electrical, heating, cooling, plumbing supply, and lumber (other than contractor's materials); carpet and floor covering; office equipment and supply; and medical equipment and supply.
- (c) Personal Services**
Laundromats; laundry and dry-cleaning drop-off establishments without any on-site cleaning; mailing and packing services; pharmacies, photo developing; photographic studios; photocopy and blueprint services; hair, tanning and personal care services; psychics and mediums; tailors and dressmakers; schools of special instruction in disciplines such as recreation, self-improvement, adult education leading to a GED, arts of all kinds, faith-based subjects, language or other special subjects, and not including nursery schools, day care centers or preschools.
- (d) Health Care Services and Facilities; Health Care Laboratory**
Emergency medical care facilities, medical and dental offices and clinics, medical and dental labs, blood-collection facilities and alternative treatments or therapy facilities, including chiropractic, acupuncture and massage therapy, among others. These facilities provide outpatient care only and on-site activities may include offices, laboratories, teaching facilities, meeting areas, cafeterias, parking and maintenance.
- (e) Product Repair and Services**
Repair of small home appliances, bicycles, clocks, watches, shoes, televisions, guns, canvas products, personal computers, and office equipment; locksmith; and upholstery shop.
- (f) Mailing and Packing Service**
Mailing and packing business uses in the CO, Commercial Office, and the Herndon Downtown (designated in the Downtown Overlay as shown in the Herndon 2010 Comprehensive Plan (adopted June 19, 1990) as amended) shall be of a scale and impact harmonious with existing development and planning policy for the Herndon Downtown. Factors to be considered include traffic impact, especially that of delivery vehicles serving the facility. Sites that warrant large areas on-site for truck loading, unloading, and circulation are discouraged in the CO District and in the Downtown.
- (g) Other Personal Services and Retail Sales**
Animal services (pet daycare, kennel, veterinary hospital or clinic) financial institutions (banks, credit unions, and investment or brokerage services); funeral home; and temporary seasonal stands for the sale of produce.
- (3) Similar Use Types Not in this Category**
- (a)** An establishment for the cleaning of garments, articles or goods of fabric, or a linen or diaper cleaning service establishment is considered a laundry or dry-cleaning plant and is in the category of Industrial Service.

1 **(b)** Lumberyards and other building material sales that sell primarily to
2 contractors and do not have a retail orientation are in the category of
3 Wholesale Sales.

4 **(c)** Repair and service of motor vehicles, motorcycles, and light and
5 medium trucks is in the category of Vehicle Sales and Service.

6 **(d)** Although walk-in and self-service photocopy, faxing, and photo
7 developing businesses are permitted, publishing, lithography and bulk
8 production of printed materials distributed by commercial vehicles are
9 permitted under the Industrial Service Use Category.

10
11 **(4) Standards**

12 All uses shall comply with all applicable standards in this Chapter. In addition,
13 the following standards shall apply:

14
15 **(a)** Animal Hospitals, Commercial Kennels, Pet Daycare, Animal Shelters
16 and Veterinary Clinics shall comply with the following standards:

17 1. Animal hospitals and veterinary clinics shall comply with the
18 regulations of 18VAC150-20-200. Standards for veterinary
19 establishments.

20 2. Not maintain kennels outside the principal building.

21 3. Be sufficiently insulated so no unreasonable noise or odor
22 can be detected off-premises.

23 4. Properly control animal waste.

24 5. If adjacent to existing single family attached or detached
25 development, or undeveloped land zoned for single family attached or
26 detached development, not allow the height of buildings to exceed the
27 maximum height permitted in the adjoining zoning district.

28 6. If adjacent to existing single family detached or attached
29 development, provide a transitional landscaped screen, a minimum of
30 20 feet in width along the property line which the single family
31 detached development abuts.

32 7. Accessory uses may include:

33 a. pet-related food or other retail materials related to the
34 animal service, grooming services, as long as the accessory
35 uses do not include more than 25 percent of the total gross
36 floor area.

37 b. Boarding of sick or well animals at animal hospitals
38 and veterinary clinics.

39
40 **(b)** Pharmacy (Freestanding)
41 A significant portion of the parking areas shall be situated to the side
42 and preferably to the rear of the primary building.

43 **(c)** Financial institutions
44 Prior to obtaining a zoning appropriateness permit, the applicant shall
45 provide to the zoning administrator a written statement from the
46 Herndon Police stating that the Herndon Police Department has been
47 notified of the proposed use and its proposed location.

48 **(d)** All Uses

No retail sales and service establishment shall display merchandise or conduct business between the storefront and the public street, except pursuant to Section 78-402(G)~~(16)~~(17), *Outdoor Display of Products for Sale* or Section 78-202(F)(3)(f) Temporary Use Site Plans Permit.

(K) Vehicle Sales and Service Use Category

(1) Characteristics

The *Vehicle Sales and Service Use Category* is characterized by the direct sales of and services of passenger vehicles, light and medium trucks, and other consumer motor vehicles such as motorcycles. Accessory uses may include offices, sales of parts, and vehicle storage.

(2) Examples

Examples include sales of automobiles or recreational vehicles; auto repair; auto servicing; auto wash and detail shops; full-service, mini-service, and self-service gas stations; vehicle full service washes; transmission or muffler shops; towing service; tire sales and mounting; taxicab service; or towing service.

(3) Similar Use Types Not in this Category

- (a) Vehicles rentals are permitted as an accessory uses; see Section 78-402, *Accessory Uses and Structures*.
- (b) Refueling facilities for vehicles that belong to a specific use (fleet vehicles) are considered accessory uses if they are located on the site of the principal use.
- (c) Dismantling, wrecking, or sale of abandoned, wrecked, or inoperable vehicles or parts thereof is prohibited.
- (d) Exterior storage of vehicles that are not for sale or rental, such as for a towing service or for vehicle repair, is prohibited.
- (e) Exterior storage of vehicle parts is prohibited.
- (f) An automatic vehicle wash shall be considered an accessory use to a gasoline sales use or other automotive use when it is located on the same lot. The automatic vehicle wash shall be governed by the use and dimensional standards applicable to the principal automotive use.
- (g) Self-service vehicle washes, other than automatic vehicle washes, are prohibited.

(4) Standards

All uses shall comply with all applicable standards in this Chapter. In addition, the following standards shall apply:

- (a) Vehicle sales shall comply with the following standards:
 - 1. Sale of used vehicles is prohibited.
 - 2. There shall be no outside vehicle display or storage
 - 3. There shall be no vehicle display on top of a building.
 - 4. There shall be no display of other materials for sale between the principal structure and the street.
 - 5. Vehicles shall not be tested on residential streets.
- (b) Vehicle Repair, Transmission and Muffler Shops, Sales of Vehicle Parts and Tires shall comply with the following standards:
 - 1. Be located at least 250 feet from schools, daycare centers, residential uses, or undeveloped land in residential zoning districts.
 - 2. Repair and store all vehicles within an enclosed building. Temporary vehicle storage may be allowed in an outdoor storage

area that shall be no larger than 25 percent of the total lot area. Such areas shall be located to the rear of the principal structure and be screened from offsite views. The height of materials and equipment stored shall not exceed the height of the screening fence or wall.

3. Have the same architectural features on all sides of the building; further, any garage door openings shall be located to the side or rear of the building and shall be screened so as not to be visible from the street frontage of the property, and shall be architecturally compatible with the building group or neighborhood with which it is associated.

4. Have no outdoor speaker or public address system which is audible off-site.

5. Not test vehicles on residential streets.

6. Not park or store a vehicle as a source of parts, or park or store a vehicle for the purpose of sale or lease/rent.

7. Not store or park a vehicle that has been repaired and is awaiting removal for more than 15 consecutive days.

8. Vehicles offered by the business for use by customers of the business while customer vehicles are being repaired on the site may be stored on the site. Otherwise, no more than five vehicles shall be stored outdoors anywhere on the site overnight.

9. Store all vehicle parts, dismantled vehicles, and similar materials shall be stored within an enclosed building or totally screened from view by a solid privacy fence.

10. Not include any accessory use such as vehicle or tool rental and shall be limited to the servicing and retail sales of products used primarily by passenger vehicles.

11. No more than two abandoned, wrecked, or inoperable vehicles shall be parked on the site for a continuous period of 72 hours.

(c) Vehicle full service wash and detailing shall comply with the following standards:

1. Consist of a full-service vehicle wash operation.

2. In addition to the landscape requirements in Article V, buffer and screen to avoid adverse impacts on surrounding properties.

(d) Fuel Sales, With or Without a Convenience Store

1. Gasoline pumps and permanent canopies over gasoline pump islands that have supports located on the pump islands shall be set back a minimum of 25 feet from all property lines. No canopy shall extend over any required buffer or screening areas.

2. Lighting for canopies for service stations and other similar uses shall not exceed an average of 12 foot-candles as measured at ground level at the inside of the outside edge of the canopy.

3. The use must conform to all other standards and provisions of the Herndon Town Code, including Section 78-508, *Signs*, and Section 78-515(l), *Exterior Lighting Standards*.

4. The enterprise shall not be used for the performance of major repairs, dismantling, wrecking or sale of vehicles and shall not include any outdoor storage of vehicles.

5. There shall be no outside storage or display of goods offered for sale.

(L) Lodging Businesses Use Category

(1) Characteristics

The *Lodging Businesses Use Category* includes rooms and dwelling units arranged for rent, lease, or interval occupancy, generally for stays of less than 30 days. Accessory uses may include pools and other recreational facilities, limited storage, restaurants, bars, meeting facilities, and offices.

(2) Examples

Examples include hotels, inns, motels, conference centers, rooming houses and boarding houses.

(3) Standards

All uses shall comply with all applicable standards in this Chapter. Hotels, inns and motels shall provide principal access to each guest room within the motel, inn or motel from a hallway that is entirely enclosed within the structure of the hotel or motel building.

(M) Commercial Utilities Use Category

(1) Characteristics

The *Commercial Utilities Use Category* includes Major Utilities, which are infrastructure services providing regional or community-wide service and are not owned and operated by an agency of government. Communication towers also are a type of utility. Utility uses generally do not regularly have employees at the site. Services may be publicly or privately provided. Accessory uses may include parking and control, monitoring, or data transmission equipment.

(2) Examples

1. Example Use Types of Major Utilities include water towers, waste treatment plants; electrical substations; and maintenance/storage yards.
2. Examples of Communication Towers include facilities for transmitting wireless phones and pager services, and television and radio broadcasting equipment.

(3) Similar Use Types Not in this Category

- (a)** Utility offices are in the category of Offices.
- (b)** Ordinary on-site poles, lines, pipes, transformers, rights-of-way, and stormwater retention and detention facilities necessary to meet the needs of uses on the site are considered accessory uses.
- (c)** Government facilities and government-owned or maintained utilities are in the category of Government Facilities.
- (d)** Minor Utilities such as water and sewage pump stations; stormwater retention and detention facilities; and telephone exchanges are considered accessory uses. See Section 78-402 for standards for accessory uses.

(4) Standards

All uses shall comply with all applicable standards in this Chapter, including Section 78-515, *Performance Standards*. In addition, the following standards shall apply:

1 **(a)** The Zoning Administrator may require that an electrical power facility,
2 substation, or transmission station shall comply with the following standards:

- 3
4 1. Be within reasonable proximity of the area to be served by
5 the facility.
6 2. Provide additional setbacks, screening and buffering around
7 the perimeter of the proposed use if it is deemed necessary by the
8 Zoning Administrator to ensure land use compatibility with
9 surrounding uses.
10

11 **(b)** Communication Towers, Monopoles, and other Mobile or Land-Based
12 Telecommunication Facilities

- 13 1. Except for antennas completely enclosed within a structure,
14 all antennas and their supporting mounts shall be of a material or
15 color that closely matches and blends with the structure on which it is
16 mounted.
17 2. No commercial advertising or signs shall be allowed on any
18 monopole, tower, antenna, antenna support structure, or related
19 equipment cabinet or structure.
20 3. If any additions, changes or modifications are to be made to
21 monopoles or towers, the Building Official shall have the authority to
22 require proof, through the submission of engineering and structural
23 data, that the addition, change, or modifications conforms to structural
24 wind load and all other requirements of the Virginia Uniform
25 Statewide Building Code.
26 4. No signals, lights or illumination shall be permitted on an
27 antenna unless required by the Federal Communications
28 Commission, the Federal Aviation Administration or the Town,
29 provided, however, that on all antenna structures which exceed 100
30 feet in height, a steady red marker light shall be installed and
31 operated at all times, unless the Zoning Administrator waives the red
32 marker light requirement upon a determination by the Fairfax County
33 Police Department that such marker light is not necessary for flight
34 safety requirements for police and emergency helicopter operations.
35 All such lights shall be shielded to prevent the downward
36 transmission of light.
37 5. Antennas may be located on existing buildings as an
38 accessory use. See Section 78-402(G)(3).
39 6. All antennas and related equipment cabinets or structures
40 shall be removed within 120 days after such antennas or related
41 equipment cabinets or structures are no longer in use.
42

43 **(N) Industrial Service Use Category**

44 **(1) Characteristics**

45 The *Industrial Service Use Category* is characterized by businesses that are
46 engaged in the repair or servicing of industrial, business, or consumer
47 machinery, equipment, products, or by-products. Firms that service
48 consumer goods do so by mainly providing centralized services for separate
49 retail outlets. Contractors and building maintenance services and similar uses
50 perform services off-site. Few customers come to the site. Accessory
51 activities may include retail sales, offices, parking, or storage. Where
52 applicable such uses must meet the performance standards in Section 78-
53 515.

(2) Examples

Example Use Types include: establishments for the mechanical cleaning of garments, articles or goods of fabric; linen or diaper cleaning service establishment; contractors of building, heating, plumbing, electrical services; document production, printing, engraving, commercial publishing and lithography; janitorial and building maintenance services; repair of electronic parts, electronic equipment, electric motors, communication equipment, or scientific or professional instruments; bulk and direct mail insertion and sealing; pest ~~control~~ **Control** (exterminators); photo-finishing laboratories; scientific research and scientific development without mass production; tool repair; and machining and welding repair shops.

(3) Similar Use Types Not in this Category

- (a)** Contractors and others who perform services off-site are included in the Offices Use Category, if major equipment and materials are not stored at the site and fabrication or similar work is not carried out at the site. If major equipment and materials are stored at the site, or fabrication or similar work is carried out on the site, then such Use Types are classified in the Warehouse Use Category
- (b)** Prohibited uses include dry cleaning plants utilizing perchloroethylene; heavy equipment sales, rental, repair, or storage (except as an accessory use); heavy truck servicing and repair; truck stops; fuel oil distributors; and fuel yards.

(4) Standards

All uses shall comply with all applicable standards in this Chapter. In addition, the following standards shall apply:

(a) Scientific Research and Scientific Development

1. The scientific research and development activities to be performed shall be described in writing by the applicant and approval of an application for a Zoning Map Amendment for this purpose, a Zoning Inspection Permit, or a Zoning Appropriateness Permit for this use shall be based upon the nature, purpose and scope of the research and development and its effect upon the general welfare of the community.
2. In addition to the landscape and screening requirements in Article V, additional landscaping and screening may be required as deemed appropriate by the Zoning Administrator to afford maximum protection to adjoining property and strict adherence to the required landscaping shall be required.

(b) Dry cleaning and laundry plants

1. Buildings shall be located at least 250 feet from schools, daycare centers, residential uses, or undeveloped land in residential zoning districts.
2. Be within an enclosed building where there is minimal chance that malfunctioning equipment or improper operations could adversely affect persons outside of the establishment.
3. Shall not use perchloroethylene.
4. Use nonflammable liquids in the cleaning processes that emit no odor, fumes, or steam detectable to normal senses from off the premises.
5. All state and federal laws.

(c) All Uses

1. Structures, storage yards, and associated on-site activities other than required parking and landscaping shall be located at least 250 feet from lot lines shared with schools, daycare centers, residential uses, or undeveloped land in residential zoning districts.
2. Repair and store all machines within an enclosed building.
3. Fleet storage shall be located within a masonry wall and gate providing 100 percent visual screen. The area for fleet storage shall be additional to the standard parking requirement for the use, and be no larger than 25 percent of the total lot area. Such area shall be located to the rear of the principal structure. The height of vehicles stored shall not exceed the height of the screening wall.

(O) Light Manufacturing Use Category

(1) Characteristics

The *Light Manufacturing* Use Category includes the mechanical transformation of predominantly previously prepared materials into new products, including assembly of component parts and the creation of products for sale to the wholesale or retail markets or directly to consumers. Such uses are wholly confined within an enclosed building and must meet the performance standards in Section 78-515.

(2) Examples

Example Use Types of Light Manufacturing include: Apparel production; assembly of pre-fabricated parts; assembly of artificial limbs, dentures, hearing aids, and surgical instruments; computer design, development or production; production or fabrication of electronic parts, electronic equipment, optical instruments or devices, aquariums, electric motors, communication equipment, scientific or professional instruments, precision items; research laboratories; testing for purposes of scientific research and scientific development; sign making; machining and welding fabrication or production; and woodworking and cabinet building.

(3) Similar Use Types Not in this Category

Manufacture and production of goods from composted organic material or hazardous materials is prohibited.

(4) Standards

All uses shall comply with all applicable standards in this Chapter. In addition, the following standards shall apply:

(a) Research Laboratories or Testing for Purposes of Scientific Research and Scientific Development

The activities to be performed shall be described in writing by the applicant and approval of an application for a Zoning Map Amendment for this purpose, a Zoning Inspection Permit, or a Zoning Appropriateness Permit for this use shall be based upon the nature, purpose and scope of the activity and its effect upon the general welfare of the community.

(b) Uses Involving Freight Delivery, Storage, Mass Production and Transporting of Finished Products

The freight activities to be performed shall be described in writing by the applicant and may be subject to review for transportation impact. Approval of an application for a Zoning Map Amendment for this purpose, a Zoning Inspection Permit, or a Zoning Appropriateness Permit for this use may include conditions for mitigating any transportation impact associated with freight hauling, delivery and distribution. Conditions shall be based upon the nature, purpose and scope of the activity and its effect upon the general welfare of the community.

(c) All Uses

1. Structures, storage yards, and associated on-site activities other than required parking and landscaping shall be located at least 250 feet from lot lines shared with schools, daycare centers, residential uses, or undeveloped land in residential zoning districts.
2. Repair and storage of all machines and equipment shall occur within an enclosed building.
3. In addition to the landscape and screening requirements in Article V, additional landscaping and screening may be required as deemed appropriate by the Zoning Administrator to afford maximum protection to adjoining property and strict adherence to the required landscaping shall be required.
4. Fleet storage shall be located within a wall and gate providing 100 percent visual screen. The area for fleet storage shall be additional to the standard parking requirement for the use, and be no larger than 25 percent of the total lot area. Such area shall be located to the rear of the principal structure. The height of vehicles stored shall not exceed the height of the screening wall.

(P) Self-Service Storage Use Category

(1) Characteristics

The *Self-Service Storage Use Category* is characterized by uses that provide separate storage areas for individual or business uses. The storage areas are designed to allow private access by the tenant for storing or removing personal property.

(2) Accessory Uses

Accessory uses may include living quarters for a resident manager or security personnel, or leasing offices. Use of the storage areas for business operations, sales, service, repair, or manufacturing operations is not considered accessory to the use. The rental of trucks or equipment is also not considered accessory to the use.

(3) Examples

Examples include facilities that provide individual storage areas for rent. These uses are also called "mini-warehouses."

(4) Similar Use Types Not in this Category

A transfer and storage business where there are no individual storage areas or where employees are the primary movers of the goods to be stored or transferred is in the Warehouse and Freight Movement Use Category.

(5) Standards

All uses shall comply with all applicable standards in this Chapter. In addition, self-service storage shall comply with the following standards:

- (a) The only commercial uses permitted on site shall be the rental of storage bays and the pickup and deposit of goods or property in storage.
- (b) Retail sale may be permitted as an associated use limited to the lesser of either 40 percent of the area containing the office or 5,000 square feet.
- (c) Storage bays shall not be used to manufacture, fabricate or process goods; service or repair vehicles, small engines or electrical equipment, or to conduct similar repair activities; conduct garage sales or retail sales of any kind; or conduct any other commercial or industrial activity on the site;
- (d) One security or caretaker residence may be developed on the site.
- (e) Individual storage bays or private postal boxes within a self-service storage facility use shall not be considered premises for the purpose of assigning a legal address.
- (f) Except as provided in this section, all property stored on the site shall be entirely within enclosed buildings.
- (g) Open storage of recreational vehicles and dry storage of pleasure boats of the type customarily maintained by persons for their personal use shall be permitted within a self service storage facility use, provided that the following standards are met:
1. The storage shall occur only within a designated area. The designated area shall be clearly delineated.
 2. The storage area shall not exceed 25 percent of the buildable area of the site.
 3. The storage area shall be entirely screened from view from adjacent residential areas and public streets by a building or solid wall with landscaping on the outside of the wall.
 4. Storage shall not occur within the area set aside for minimum building setbacks.
 5. No vehicle maintenance, washing, or repair shall be permitted.
- (h) If separate buildings are constructed, there shall be adequate space for the circulation and parking of large moving vans.
- (i) Storage bay doors shall not face any abutting property located in a residential district, nor shall they be visible from any public road.
- (j) Hours of public access to a self-storage use adjacent to a residential zoning district shall be restricted to between 6:00 a.m. to 9:00 p.m. Monday through Friday except Federal Holidays and 7 a.m. to 10 p.m. on Saturdays, Sundays and Federal Holidays.
- (k) A screen shall be constructed to obscure roof-mounted heating and air conditioning and other equipment, if any. The combined height of the building and the screen shall not exceed the height limit in the zoning district where the use is permitted.
- (l) Be designed to ensure proper functioning of the site as related to vehicle stacking, circulation and turning movements.
- (m) Provide adequate, enclosed trash storage facilities on the site.

(Q) Transportation and Parking Category

(1) Characteristics

The Transportation Use Category is characterized by Use Types that include facilities for public bus maintenance and parking that are not accessories to a specific principal use and at which a fee may or may not be charged. A facility that provides both accessory parking for a specific use and regular fee

parking for people not connected to the use is also in the category of Transportation and Parking.

(2) Examples

Example Use Types include public bus maintenance facilities, commercial parking lots or structures, and mixed parking facilities (partially accessory to a specific use, partially for rent to others except for occasional special events).

(3) Similar Use Types Not in this Category

(a) Local bus stops, bus stop shelters, and public park-and-ride lots and public parking structures are in the category of Government Facilities.

(b) Parking facilities that are accessory to a principal use, but that charge the public to park for occasional events nearby, are not considered Transportation and Parking Use Types.

(c) Parking facilities that are accessory to a principal use are not considered Transportation and Parking Use Types, even if the operator leases the facility to the principal use or charges a fee to the individuals who park in the facility.

(d) Sales or servicing of vehicles is in the category of Vehicle Sales and Service.

(4) Standards

All uses shall comply with all applicable standards in this Chapter. In addition, the following standards shall apply:

(a) Public bus maintenance facilities shall comply with the following standards:

1. Be located at least 250 feet from schools, daycare centers, residential uses, or vacant land in residential zoning districts.
2. Not locate storage areas within a required setback or buffer.
3. Screen all outside storage areas with a solid wall or fence with a minimum height of eight feet.
4. Have no outdoor speaker or public address system that is audible off-site.

(b) A parking lot or structure shall comply with the following standards:

1. Be a principal use. Parking spaces may be rented for parking.
2. Space for offices, personal services or retail sales are allowed to be developed within a parking structure, or attached to it, if permitted by the underlying zoning district, in floor area equivalent to 49 percent of the parking structure.
3. Landscape requirements shall be met for both parking lots and parking structures. In the case of parking structures, landscaping may be provided on the structure itself in planters with proper irrigation and drainage accommodations.
4. Avoid vehicular entrances and exits across from residentially zoned property unless the property is developed for a use other than residential.

(R) Warehousing Use Category

(1) Characteristics

The *Warehousing* Use Category includes establishments that are involved in the storage or movement of goods for themselves or other firms, businesses or households. Goods are generally delivered to other firms or the final consumer, except for some will-call pickups. There is little on-site sales activity with the customer present. Accessory uses include offices, truck fleet parking, and maintenance areas.

This category also includes electronic warehousing characterized by structures that are primarily occupied by technical and electronic equipment. Operations are characterized by electronic functions rather than the movement of physical objects. Typically, only a small number of employees are present on a site primarily for the purpose of servicing electronic equipment. Traffic to and from an electronic warehousing Use Type typically involves little heavy vehicle traffic for day-to-day operations, with fiber optic cables or other electronic communications media instead serving as the primary means of connecting the functions of the use to customers and others.

(2) Examples

Example Use Types include separate warehouses used by retail stores such as furniture and appliance stores; household moving and general freight storage; cold storage plants, including frozen food lockers; parcel services; communication/transmission warehousing, also known as "data warehousing;" electronic switching centers for telecommunications; contractors with storage yards; and mass storage facilities for electronic data.

(3) Similar Use Types Not in this Category

Contractor's offices that do not include storage yards are in the category of Offices.

(4) Standards

All uses shall comply with all applicable standards in this Chapter. In addition, the following standards shall apply.

(a) Electronic Warehousing

For all electronic warehousing uses, exterior areas devoted to auxiliary generators shall be screened on all sides by a brick or block enclosure that matches the exterior color of the principal building. Telecommunications uses and related electronic and mechanical equipment are subject to the following standards:

1. The area for equipment shall be designated on a site plan and shall occupy at least 2,000 square feet of floor area within a single building.
2. The equipment shall primarily serve off-site users or customers.
3. The office, workstation, or normal work place of any individual who works in the building housing this designated area shall be outside of the designated area for computation purposes.

(b) Contractors With Storage Yards

The storage area shall meet all of the following standards:

1. It shall be incorporated into the overall design of the primary structure on the site and shall be located at the rear of the primary structure.
2. It shall be screened from view from all property lines and adjacent rights-of-way by an opaque fence or wall between six and eight feet in height that incorporates at least one of the predominant materials and one of the predominant colors used in the primary structure. Materials may not be stored higher than the height of the primary structure. The perimeter of the fence or wall shall be landscaped with a seven foot wide strip containing a minimum of one tree for every 150 square feet of lot area.
3. A landscaped earth berm may be used instead of or in combination with a fence or wall.
4. If the outdoor storage area is covered, then the covering shall include at least one of the predominant exposed roofing colors on the primary structure.
5. Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.
6. If installed, exterior lighting shall meet the functional needs of the establishment without adversely affecting adjacent properties or the neighborhood.

(c) Retail Sales

Retail sale may be permitted as an associated use in a warehouse establishment, to be limited to the lesser of either 25 percent of the establishment's gross floor area or 5,000 square feet.

(S) Wholesale Sales Use Category

(1) Characteristics

The *Wholesale Sales* Use Category includes firms involved in the sale, lease, or rental of products primarily intended for industrial, institutional, or commercial businesses. The uses emphasize on-site sales or taking of orders and often include display areas. Businesses may or may not be open to the general public, but sales to the general public are limited. Products may be picked up on-site or delivered to the customer. Accessory uses may include offices, product repair, warehouses, minor fabrication services, and repackaging of goods.

(2) Examples

Examples include sale or rental of machinery, equipment, heavy trucks, building materials, special trade tools, welding supplies, machine parts, electrical supplies, janitorial supplies, restaurant equipment, and store fixtures; contractor's materials; mail order houses; and wholesalers of food, clothing, auto parts, and building hardware.

(3) Similar Use Types Not in this Category

- (a)** Firms that engage primarily in sales to the general public or on a membership basis are in the category of Personal Services and Retail Sales.
- (b)** Firms that are primarily storing goods with little on-site business activity are in the category of Warehousing.

(4) Standards

All uses shall comply with all applicable standards in this Chapter.

78-402 ACCESSORY USES AND STRUCTURES

(A) Purpose and Intent

This Section authorizes the establishment of accessory uses and structures that are incidental and customarily subordinate to principal uses. The Town's intent is to allow a broad range of accessory uses, so long as such uses are located on the same site as the principal use, and so long as they comply with the standards set forth in this Section to reduce potentially adverse impacts on surrounding properties. Some accessory uses are required (such as parking), some are permitted by right (such as signs), some are permitted as special exceptions (such as accessory dwelling units) and many are allowed in planned development districts.

(B) General Accessory Use and Structure Standards

(1) Compliance with Ordinance Requirements

All accessory uses and structures shall conform to the applicable requirements of this Ordinance, including the use regulations in this Article IV: *Use Regulations*, and the dimensional standards in Article III: Zoning Districts. The provisions of this Section establish additional standards and regulations for accessory uses and structures. In case of any conflict between the accessory use/structure standards of this Section and any other requirement of this Ordinance, the standards of this Section shall control.

(2) Time of Establishment

No accessory use shall be established and no accessory structures shall be allowed on land until after the principal structure is constructed.

(3) General Conditions

All accessory uses and structures shall:

- (a)** Directly serve the principal use or structure.
- (b)** Be customarily accessory and clearly incidental to the principal use.
- (c)** Be subordinate in area, extent, and purpose to the principal use or structure. An accessory use may not exceed 25 ~~percent~~ % of the floor area shared with the principal use, and any combination of more than two accessory uses may not exceed 50 ~~percent~~ % of the floor area shared with the principal use.
- (d)** Be owned or operated by the same entity owning the principal use or structure.
- (e)** Be located on the same lot as the principal use or structure or on a contiguous lot.
- (f)** Together with the principal use or structure, not violate the bulk, density, parking, landscaping, or open space standards of this Ordinance.

(C) Permitted and Allowed Accessory Uses

(1) Explanation of Table of Permitted and Allowed Accessory Uses

(a) Permitted Accessory Uses

A "P" in a cell indicates that an Accessory Use is permitted by right in the respective zoning district, subject to compliance with the use-specific standards set forth in the final column of the Table of Permitted and Allowed Accessory Uses. Permitted accessory uses are subject to all other applicable regulations of this Chapter, including those set forth in Article III: Zoning Districts, and Article V: *Development Standards*. Any principal use permitted in Table 78-400, *Table of Principal Permitted and Allowed Uses*, can be permitted as an accessory use in the same zoning district where it is permitted as a principal use, subject to restrictions listed in this section.

(b) Special Exception Uses

An "SE" in a cell indicates that an Accessory Use is permitted by special exception in the respective zoning district, subject to compliance with the use-specific standards listed in this Section, an approval of a Special Exception (Section 78-202(C)). It shall be unlawful to conduct an accessory use requiring a special exception without proper approval of a special exception application.

(c) Allowed Uses in Planned Developments

An "A" in a cell indicates that an Accessory Use is an allowed use in the respective planned development district, subject to approval as a zoning map amendment (Section 78-202(A)).

(d) Prohibited Uses

A blank cell indicates that the accessory use is prohibited in the zoning district.

(e) Additional Use-Specific Standards

Regardless of whether or not an accessory use is permitted by right, permitted as a special exception, or allowed in a planned development, there may be additional regulations that are applicable to a specific accessory use. Use-specific standards are listed following Table 78-402(C). These standards apply to all zoning districts unless otherwise specified.

(f) Uses Not Listed

1. Procedure for Approving Unlisted Uses
 - ~~a.~~ Where a particular accessory use is not specifically listed in Table 78-402(C), the Zoning Administrator shall make a determination of appropriateness about the use in question using the following procedure.
 - ~~i.~~ The Zoning Administrator may permit the accessory use upon finding the standards of Section 78-400(A)(7)(b), *Standards for Approving Unlisted Uses*, are met. The request shall be treated as an Interpretation pursuant to Section 78-202(~~K~~)(L), *Determinations*. The Zoning Administrator shall give due consideration to the intent of this Chapter concerning the zoning district(s) involved, the character of the uses specifically identified, and the character of the use(s) in question. Based on these considerations, the Zoning Administrator may find that the proposed accessory use is not permitted in any district.
 - ~~ii.~~ By contrast, where a particular accessory use is specifically listed in Table 78-402(C), and a blank cell is shown, the Zoning Administrator may not permit the use in question.
 - ~~iii.~~ If the Zoning Administrator determines that an unlisted accessory use is compatible in the zoning district based on the consideration in Section 78-400(A)(7)(b) *Standards for*

Approving Unlisted Uses, the use may be permitted without a Special Exception.

- d. ~~iv.~~ If the Zoning Administrator determines that an unlisted accessory use may increase its compatibility in the zoning district based on the consideration in Section 78-400(A)(7)(b) *Standards for Approving Unlisted Uses*, the use may be permitted with a Special Exception and appropriate conditions.

2. Standards for Approving Unlisted Uses

To determine whether or not the proposed accessory use has an impact that is similar in nature, function, and duration to the other listed Use Types permitted in a specific zoning district, the Zoning Administrator shall make an assessment based on the considerations provided in Section 78-400(A)(7)(b) *Standards for Approving Unlisted Uses*.

(2) **Other Approvals**

In addition to standards contained in this subsection, accessory uses may be subject to other approvals such as a zoning inspection permit, a zoning appropriateness permit, or building permit.

(3) **Table of Permitted and Allowed Accessory Uses**

Table 78-402(C): Table of Permitted and Allowed Accessory Uses (See also [Section 78-400\(B\)](#), Table of Principal Permitted and Allowed Uses and Table [78-403\(B\)](#), of Allowed Temporary Uses and Structures)
See also Use Specific Standards in [this Section 78-402\(G\)](#)

	RESIDENTIAL				BUSINESS				PLANNED DEVELOPMENT		
Accessory Use	R-15	R10	RTC	RM	CCD	CS	CO	O&LI	PD-R	PD-B	PD-D
Accessory Dwelling Unit	SE	SE	SE						A		
Accessory Food Preparation Area	P	P	P						<u>A</u>		
Antennae of all kinds (except commercial communication antennae)	P	P	P	P	P	P	P	P	A	A	A
<u>Bed and Breakfast Establishment</u>	<u>SE</u>	<u>SE</u>									
<u>Car/Vehicle rental</u>						SE		SE		SE	SE
<u>Car/Vehicle wash</u> accessory to other automotive uses						P		SE			
Caretaker or Security Guard's Residence						P		P			
Daycare Center, Childcare Center or					SE	SE	SE	SE	A	A	A

Table 78-402(C): Table of Permitted and Allowed Accessory Uses (See also [Section 78-400\(B\)](#), Table of Principal Permitted and Allowed Uses and Table [78-403\(B\)](#), of Allowed Temporary Uses and Structures)
See also Use Specific Standards in this Section [78-402\(G\)](#)

	RESIDENTIAL				BUSINESS				PLANNED DEVELOPMENT		
Accessory Use	R-15	R10	RTC	RM	CCD	CS	CO	O&LI	PD-R	PD-B	PD-D
Pre-School											
Drive-Through Service						SE		SE		A	
Financial institutions, accessory					P	P	P	P		A	A
Home-Based Business, including Daycare or Childcare	P	P	P	P					A		A
Keeping of Livestock											
Minor utilities	P	P	P	P	P	P	P	P	A	A	A
Outdoor Seating of 25 seats or fewer					P	P	P	P	A	A	A
Outdoor Seating of more than 25 seats					SE	SE	SE	SE		A	A
Outdoor Storage as an Accessory Use						P		P			
Outdoor Display of Products for Sale					P	P					A
Parapets, Penthouses for Equipment and Other Roof Structures				P	P	P	P	P	A	A	A
Recreational Vehicle parking and storage of individually-owned vehicles	P	P	P	P					A		
School uses in conjunction with, and on the same site as, Religious Institution	SE	SE			SE			SE	A	A	A
Social service and similar community service uses	SE	SE	SE	SE	SE	SE					
Features such as fences, walls, retaining walls, gate houses, trash enclosures, refuse containers, screening enclosures,	P	P	P	P	P	P	P	P	A	A	A

Table 78-402(C): Table of Permitted and Allowed Accessory Uses (See also Section 78-400(B), Table of Principal Permitted and Allowed Uses and Table 78-403(B), of Allowed Temporary Uses and Structures)
See also Use Specific Standards in this Section 78-402(G)

	RESIDENTIAL				BUSINESS				PLANNED DEVELOPMENT		
Accessory Use	R-15	R10	RTC	RM	CCD	CS	CO	O&LI	PD-R	PD-B	PD-D
storage sheds, and swimming pools											

(D) Accessory Structures in Residential Districts

(1) Location

- (a)** Accessory structures except fences and walls shall not be located within a required setback or required side yard.
- (b)** ~~When locating an accessory structure, the structure shall be measured to include any projections such as gutters, downspouts, roofing, steps, open doors or other features that may project beyond the exterior walls.~~ Accessory structures except fences and walls ~~in~~ shall be located so the structure ~~and any feature on the structure~~ is not closer than:
1. Five feet to any alley line;
 2. Two feet to any side or rear lot line, except for a townhouse dwelling lot, where the accessory structure may be located on the side or rear lot line.
 3. Ten feet to the main building.

(2) Maximum Height

The height of an accessory structure shall not exceed the lesser of the height of the principal structure on the site, or 15 feet.

(3) Maximum Floor Area

On any lot, the combined floor area of all detached accessory structures shall not be greater than 50 percent of the floor area of the principal structure, unless otherwise specified in this Chapter.

(4) Residential Occupancy

Residential occupancy shall not be allowed in any accessory structure except under the provisions of Section 78-402(G)(1), *Accessory Dwelling Unit*.

(5) Temporary Accessory Structures

Temporary accessory structures shall be governed by the procedures and standards of Section 78-202(F)(3)(f), *Temporary Use Site Plan Permit*, and Section 78-403 *Temporary Uses and Structures*.

(6) Required Approvals

On lots with single family detached or duplex dwellings, the construction, replacement or enlargement of an accessory building when the alteration is:

- (a) less than 750 square feet may require a building permit and a building location survey in accordance with Section 78-202(F)(3)(c).
- (b) 750 square feet of floor area or more must be approved through a single lot development plan in accordance with Section 78-202(F)(3)(d).

(E) Accessory Structures in Multi-Family and Nonresidential Districts

(1) General Requirements

- (a)** Structures accessory to multi-family and nonresidential uses shall be subject to the approval of a site plan and approved through the site plan review process, Section 78-202(F).
- (b)** Structures accessory to multi-family and nonresidential uses shall be subject to approval by the Architectural Review Board under Chapter 58 of the Code of Ordinances or the Heritage Preservation Review Board under Section 78-202(I) ~~of this Chapter.~~

(2) Location

- (a)** Accessory structures other than gate houses shall not be located within the required front setback.
- (b)** Accessory structures shall not be located within any required buffer, screening or landscaped areas.
- (c)** Accessory buildings located on land adjacent to existing residential development or undeveloped land in a residential zoning district shall be located not closer to the property line than a distance equivalent to the height of the accessory structure.
- (d)** Trash enclosures shall be located at least 50 feet away from a lot line adjoining existing residential development or undeveloped land in a residential zoning district.

(3) Maximum Height

The height of an accessory structure other than a parking structure shall not exceed the lesser of the height of the principal structure on the site, or eighteen feet. A parking structure shall not exceed the height of the principal structure.

(4) Maximum Floor Area

The maximum floor area of all structures, other than parking structures, accessory to principal multi-family and nonresidential uses shall not exceed ten percent of the area of the lot on which the permitted principal use is located.

(5) Temporary Accessory Uses and Structures

Temporary accessory uses and structures shall be governed by the procedures and standards of Section 78-202(F)(3)(f), *Temporary Use Site Plan*, and Section 78-403, *Temporary Uses and Structures*.

(F) Restricted or Prohibited Accessory Uses

(6) Prohibited in All Zoning Districts

- (a)** The commercial display and sale of vehicles shall be prohibited in all zoning districts, except for approved Auto Sales businesses that comply with all requirements of this Ordinance.
- (b)** Individually-owned vehicles may be identified for sale provided:
1. The vehicle is parked on a paved surface (Section 78-500 ~~(C)(7)(A)(i)~~);
 2. The vehicle is in operable condition (Herndon Town Code, Section 26-307).

(7) Restricted in Residential Zoning Districts

The following activities shall not be regarded as accessory to a residential principal use and are restricted in residential districts as provided below.

- (a)** Vehicular Repair
Vehicle repair, including engine, body, or other repair or repainting of vehicles owned by a person not residing at the address is prohibited.
- (b)** Portable Storage Units
Portable storage units may not be established as an accessory structure on a residential site. For provisions about use of portable storage units as a temporary use, see Section 78-403, Temporary Uses and Structures.
- (c)** Parking of Commercial Vehicles
For provisions about parking of commercial vehicles in residential districts, see Section 78-500(C) ~~(7)(8)~~.

(G) Standards for Specific Accessory Uses and Structures

(1) Accessory Dwelling Unit

An accessory dwelling unit shall comply with the following standards:

- 1. An accessory dwelling unit shall be permitted by special exception in accordance with Section 78-402(C), *Permitted and Allowed Accessory Uses*.
- 2. An accessory dwelling unit shall comply with all applicable building and development standards for dwelling units in the zoning district in which the accessory dwelling unit will be located. Mobile homes, recreational vehicles, travel trailers, and the like shall not be used as accessory dwelling units.
- 3. There shall be no more than one accessory dwelling unit on a lot in addition to the principal dwelling.
- 4. The floor area of an accessory dwelling unit shall not exceed 35 percent of the gross floor area of the principal dwelling, or 1,200 square feet, whichever is less.
- 5. If a part of the principal structure on the lot, any external entrance for the accessory dwelling unit shall be located on the side or rear of the structure.
- 6. An accessory dwelling unit shall not contain more than two bedrooms or be occupied by more than two persons.
- 7. An accessory dwelling unit shall be subject to the dwelling unit occupancy standards of Section 78-401(B)(4)(d).
- 8. Either the accessory dwelling unit or the principal dwelling on a property shall be occupied by at least one person who meets the following qualifications:
 - a. The person is at least 62 years of age; or
 - b. The person has a physical, mental, or cognitive disability
 - i. as certified by the Social Security Administration, the Veterans Administration, or the Railroad Retirement Board; or
 - ii. As confirmed in writing signed by a licensed medical practitioner or a practitioner licensed in an allied health field.
 - c. This section shall not be deemed to exclude individuals who meet the qualifications above and are able to seek or engage in employment.
- 9. There shall be a minimum of one off-street parking space with convenient access to a street for the accessory dwelling unit. The parking shall be in addition to the requirements specified for the principal dwelling.

10. Either the accessory dwelling unit or the principal dwelling shall be occupied by the owner of the principal dwelling.
11. Accessory dwelling units shall not be sold apart from the principal dwelling upon the same lot where they are located.
12. An accessory dwelling unit shall comply with all applicable standards for the principal dwelling.
13. Any accessory dwelling unit shall meet the applicable code regulations for building, safety, health, and sanitation standards. During reasonable hours upon prior notice, the applicant shall make provisions to allow officials to make the appropriate inspections.
14. A Zoning Inspection Permit is required for an accessory dwelling unit. The Special Exception and Zoning Inspection Permit for the accessory dwelling unit shall expire:
- a. 90 days from the date on which the owner no longer occupies the property. The owner shall notify the Zoning Administrator at such time as the owner no longer occupies the property.
 - b. ~~Two One~~ years from the date of approval of the Special Exception if required improvements have not been completed.
 - c. One year from the date the use ~~was~~ ceased.
 - d. At any time the use does not comply with any of the conditions of approval or the terms of this Chapter.
15. In the case of any conflict between the accessory dwelling unit standards of this section and any other requirement of this Chapter or the Subdivision Ordinance, the standards of this section shall control.

(2) Accessory Food Preparation Area

Accessory food preparation areas are permitted in single family detached and single family attached dwellings in accordance with all of the following provisions:

- (a) The proposed activity does not contribute toward establishing an unauthorized second dwelling as described in section Article IV:78-401(B)(4)(f) Establishment of Unauthorized Dwelling Units.
- (b) The proposed activity conforms with the definition of "accessory food preparation area" in Article VII of this chapter.
- (c) A zoning appropriateness permit is approved for the accessory food preparation area.

(3) Antennae of all Kinds, Except Commercial Communication Antennae

- (a) Purpose**

These standards are adopted to comply with applicable state and federal law, including the Federal Telecommunications Act of 1996 and to control the location and screening of antennae to mitigate impact on surrounding properties.
- (b) Small Satellite Dish Antennae**

Satellite dish antennae of one meter (or 39 inches) or less in diameter shall be screened or located so as to not be visible from a public street.
- (c) Large Satellite Dish Antennae**
 - 1. Satellite dish antennae measuring one meter or more are permitted accessory uses in non-residential districts. Such dishes are subject to the standards set forth below to the maximum extent feasible, but

only where there is no impairment of acceptable signal quality. These regulations are not intended to impose unreasonable delays or impose unreasonable costs on the installation, maintenance, or use of satellite dishes, and shall not be interpreted or enforced in any manner contrary to federal or state law.

2. Within the Heritage Preservation Overlay District, satellite dishes shall be screened or located so as to not be visible from any public streets.
3. Satellite dishes shall be located to the rear of the principal building, and not within five feet of any side or rear property line or in any required buffer.
4. Satellite dishes shall be screened so that no more than 40 percent of the area of the satellite dish antenna is visible from any public street or private street open to the public. The screen may consist of, but is not limited to, fences, buildings, plantings, or any other opaque vegetation or structure permanently affixed to the real property. Screens of vegetation may be installed to meet this standard.

(d) Commercial Antennas

Antennas may be located on existing structures in conformance with the applicable provisions of Section 78-401(M)(4)(b), *Communication Towers, Monopoles, and other Mobile or Land-Based Telecommunication Facilities*.

(e) Noncommercial Radio Towers, Masts or Antennae

Noncommercial radio towers or masts and amateur radio antennas may exceed the prescribed height limit by 25 feet, except amateur radio antennae may be accommodated if they meet reasonable and customary engineering practices, and are consistent with the following:

1. An amateur radio antenna (antennae) may be erected or maintained to a maximum height of 75 feet above ground level, with no restriction on the number of support structures.
2. An amateur radio antenna shall not be located closer than a distance equal to one-fifth of its height to any lot line.
3. The antenna shall be erected by a certified rigger who shall annually re-inspect and certify to the Zoning Administrator the structural integrity of the antenna.
4. The owner of an antenna shall obtain and maintain liability insurance coverage in reasonable amounts to protect the owner from claims for bodily injury, death, and property damage related to the erection and maintenance of the antenna, and shall, upon demand, provide evidence to the Town that such insurance coverage has been obtained.
5. Upon discontinuation of use of the antenna for more than one year, the owner of the land on which the antenna is located shall remove the antenna within the succeeding one-year period.

(4) Bed and Breakfast Establishment

(a) Permitted by Special Exception

1. Bed and breakfast establishments are permitted by special exception in accordance with the provisions of Section 78-202(C), Special Exceptions and Section 78-402(C), Permitted and Allowed Accessory Uses.
2. Bed and breakfast establishments may be established

a. _____ in owner- or operator occupied single family detached homes, including normal residential accessory structures existing as of March 1, 2007;

b. _____ in the R-15 and R-10 zoning districts; and

c. _____ in the Heritage Preservation Overlay District.

3. _____ Commercial use or rental of the property for business meetings, seminars, receptions, or similar events or activities shall not be permitted. Noncommercial activities additional to simple lodging and breakfast service anticipated by the applicant to be associated with the bed and breakfast must be included specifically with the special exception application.

(b) Conformance

1. _____ The proposed site shall conform to the requirements for Special Exception uses in Section 78-301, Residential Districts and other zoning requirements
2. _____ Bed and breakfast establishments shall be deemed a residential use subject to applicable standards in this chapter..
3. _____ No special exception for a bed and breakfast establishment may be granted if the special exception would result in a site or structure that would be nonconforming under the terms of Article VI, Nonconformities.

(c) Residential Character not to be compromised

1. _____ The exterior of the single family dwelling in which the bed and breakfast establishment is operated shall maintain its single family dwelling character
2. _____ Commercial vehicle traffic to the facility for services such as laundry, food delivery, and refuse collection shall not exceed that customarily associated with a single family detached dwelling.
3. _____ On site features (such as swimming pools, outdoor seating areas, outdoor dining areas, or parking) used specifically for the operation of the bed and breakfast establishment shall be screened to minimize impact on adjacent properties used for residences.

(d) Application Requirements

In addition to the submittal requirements described in Section 78-201(C), the application for the special exception shall include:

1. _____ A report by the Town's building official, based on an inspection of the property by the building official, about building modifications that are needed, if any, to comply with building code requirements for use of the property as a bed and breakfast establishment under the Virginia Uniform Statewide Building Code and Section 310 of the International Building Code.
2. _____ On-site lighting. On-site lighting shall be shielded to prevent adverse off-site impact.

(e) Parking

1. _____ The parking requirement for a bed and breakfast establishment is stated in Section 78-500(C), Off-Street Parking Standards and is in addition to the parking required for the structure as a single family detached dwelling.
2. _____ Parking spaces used to fulfill the parking requirement for a bed and breakfast establishment shall meet the standards for residential uses in Section 78-500, Off-Street Parking and Loading.

3. Guest parking
 - a. Shall be on a paved surface, except use of alternative pavements such as brick pavers and porous pavement in accordance with Section 78-500(C)(11)(d), Standards for Alternative Materials, is encouraged and permitted.
 - b. Shall not be stacked on-site. All guest vehicles shall have free access and circulation without being blocked by other vehicles on the site.

(f) Operation

1. The maximum number of guest rooms on any one property is three and the maximum number of guests permitted on any given date is six.
2. The maximum rental term allowed for a specific guest is seven days within any six month period.
3. Each establishment shall maintain an accurate record of each individual guest and the duration of the guest's stay. Such records may be requested and reviewed by the Town upon notice.
4. A bed and breakfast establishment shall not include an eating establishment; however, breakfast and light fare may be provided for resident guests.
5. No cooking shall be permitted in guest rooms and no accessory food preparation area shall be permitted for the use of the bed and breakfast establishment.

(g) Permits and Inspections

1. A zoning inspection permit, a Certificate of Occupancy, and a business and professional occupation license shall be obtained prior to initial operation of the business as a bed and breakfast establishment. However, approval as a home-based business is not required.
2. Residences operating as a bed and breakfast establishment shall meet the applicable code regulations for building safety, health, and sanitation. During reasonable hours upon prior notice, the applicant shall make provisions to allow officials to make the appropriate inspections.
3. The Special Exception and Zoning Inspection Permit for the bed and breakfast establishment shall expire:
 - a. 90 days from the date on which the owner or operator no longer occupies the property. The owner or operator shall notify the zoning administrator at such time as the owner or operator no longer occupies the property; or
 - b. One year from the date of approval of the Special Exception if the bed and breakfast establishment has not begun; or
 - c. One year from the date the use was terminated; or
 - d. At any time the use does not comply with any of the conditions of approval or the terms of this chapter.

(5) Car/Vehicle Rental Accessory to Hotels, Motels, Inns and Conference Centers

Vehicle rental is permitted by Special Exception as an accessory to hotels, motels, inns and conference centers and shall comply with the following standards:

- (a)** Vehicles must be located on the site to which their rental is accessory.
- (b)** The location of the vehicles on the site must meet all siting standards of the principal use to which it is accessory;

- (c) The area used for the parking and storage of vehicle for rent shall be no greater than 10 percent of the site area;
- (d) Vehicles shall be located at least 250 feet from schools, daycare centers, residential uses, or undeveloped land in residential zoning districts.
- (e) Vehicles shall not be displayed within a required setback or buffer.
- (f) In addition to the landscape requirements in Article V, the building setback and yard areas shall be landscaped to provide a buffer between the right-of-way and vehicle storage areas
- (g) There shall be no display of vehicles for rent along any street frontage.
- (h) There shall be no vehicle display on top of a building.
- (i) There shall be no racks that tilt vehicles in any way.
- (j) The storage and parking of vehicles shall not use or interfere with parking or loading spaces required for the principal use.

(6) Car/Vehicle Wash Accessory to Other Automotive Uses

The standards of Section 78-402(G)(9), *Drive-Through Service Accessory to a Retail Pharmacy, Financial Institution, Laundry, Eating Establishment or other Principal Commercial Use* shall apply as appropriate.

(7) Caretaker's or Security Guard's Residence

Caretakers' or security guards' residences are subject to compliance with the following standards:

- (a) Only one unit per principal use is allowed, and it shall be occupied by at least one person, who shall be an owner or employee of the business that is the principal use.
- (b) It shall be located on the same premises with the principal use.
- (c) It shall not exceed 1,000 square feet in area.
- (d) It shall be limited to one floor and constructed so that the exterior architectural style of the dwelling is consistent with the development style of the structure housing the principal use.

(8) Daycare Center, Childcare Center or Pre-School as an Accessory Use to a Principal Commercial Use or as an Accessory Use in a Planned Development – Residential District

A daycare center, childcare center, or pre-school as an accessory use shall comply with the following standards:

- (a) The standards set forth in Section 78-401(C) for daycare center, childcare center, or pre-school as a principal use.
- (b) Not exceed an amount of floor area equivalent to 20 percent of the total floor area of the principal use to which it is accessory.
- (c) Be allowed as an accessory use only if designed and located to be compatible with adjacent land uses in terms of hours of operation, noise, lighting, parking, and similar considerations, and not cause significant traffic impacts.
- (d) In a Planned Development – Residential District, the capacity of the facility must be no greater than the need generated by the Planned Development – Residential District to which the facility is accessory. For purposes of calculating permitted capacity, the applicant may include 100 percent of the number of projected children at the age being served by the facility within the planned development.

- (9) Drive-Through Service Accessory to a Retail Pharmacy, Financial Institution, Laundry, Eating Establishment or other Principal Commercial Use**
A drive-through lane accessory to a principal commercial use shall comply with the following standards:
- (a)** Shall be allowed only by Special Exception as accessory to a principal commercial use in an enclosed structure. In approving the use, the Town may impose conditions relating to the location, configuration, and operational aspects of such drive-through service as to ensure its compatibility with surrounding uses, its consistency with the layout of the site, and its compliance with the Town's building codes and all relevant state laws and regulations.
 - (b)** A stacking lane shall be provided that is a minimum of 12 feet wide and 180 feet long as measured from the drive-through window, except that for uses which include a remote ordering device, the width and length of the required stacking lane shall be measured from the remote ordering device. The stacking lane shall be used solely for drive-through window service vehicle stacking and shall not conflict with or extend into vehicle parking areas, drives, aisles, or loading areas. For uses other than eating establishments, a shorter stacking lane may be approved based upon technical information relating to stacking requirements of a particular use.
 - (c)** Except for that portion of the lane which is adjacent to the building, the vehicle stacking lane shall be located adjacent to a landscaped open space area on at least one side.
 - (d)** The vehicle stacking lane and drive-through window shall be screened to avoid being a dominant visual feature of the site when it is viewed from adjacent streets.
 - (e)** Notwithstanding the provisions of Section 78-503, [Site Landscaping](#), a landscaped buffer a minimum of 15 feet wide shall be provided along all street frontages and shall provide the amount and types of landscape materials as specified in Section 78-503.
 - (f)** One vehicle ingress and egress is permitted, except that the Town may approve additional vehicle ingress and egress in the following instances:
 - 1. The principal use shares a vehicle ingress and egress with a commercial use on an adjoining property;
 - 2. The principal use is developed as an integral feature of a site plan for a commercial shopping center or mixed use development; or
 - 3. The use is located on a parcel with frontage on more than one street and the Town finds that an additional vehicle ingress and egress will improve on-site and off-site circulation.
 - (g)** All ingress and egress for vehicles shall be in accordance with the standards in the Public Facilities Manual and shall be located at least 10 feet from the property line of adjoining parcels. Egress located on urban minor arterial or higher classification shall be posted with signs prohibiting left-hand turning movements from the site accompanying any entrance configuration to prohibit left turns.
 - (h)** A pedestrian access path from public sidewalks to every building entrance shall be provided, and shall include access ramps at all curbs. Where any pedestrian access path crosses a drive-through aisle or stacking lane, the pavement of the drive-through aisle or stacking lane shall be constructed of a material which differs in color from the rest of the drive-through aisle or stacking lane pavement. No pedestrian access path shall cross any parking or loading space.
 - (i)** Bicycle parking facilities shall be provided.

- (j) Any exterior drive-through service price sign placed in association with any drive-through window use shall be positioned so that the message content is not visible from adjacent streets.
- (k) Lighting for canopies for drive-through service shall not exceed an average of 12 foot-candles as measured at ground level at the inside of the outside edge of the canopy
- (l) A masonry screening wall a minimum of six feet high shall be provided along any side lot or rear lot line adjacent to a residential use or district.

(10) Financial Institutions

Financial institutions ~~and that provide all or some of the~~ services as defined in Article VII, *Definitions*, are permitted accessory to a principal use with the following conditions:

- (a) Prior to obtaining a zoning appropriateness permit, the applicant shall provide to the zoning administrator a written statement from the Herndon Police stating that the Herndon Police Department has been notified of the proposed accessory used and its proposed location.
- (b) The accessory use shall share a public entrance with the principal use and have no separate entrance that serves only the accessory financial service use.
- ~~(a) When the service involves a scope limited to pay day loans, wire transfers, check cashing and similar transactions, it shall: obtain a zoning inspection permit.~~
- ~~1. To obtain the zoning inspection permit, the applicant shall submit proof that the applicant has agreed to join and participate in the Herndon Business Watch program and complete and maintain a Business Notification Form available from the Herndon Department of Police.~~
- ~~2. The Herndon Police Department shall conduct a Crime Prevention through Environment Design review prior to approval of the zoning inspection permit by the Department of Community Development.~~
- ~~(b) Share a public entrance with the principal use and have no separate entrance that serves only the accessory financial service use.~~

(11) Home-Based Businesses including Daycare or Childcare

- (a) Intent
It is the intent of the Town Council to allow home-based businesses to foster economic activity; to create wealth, prosperity, and happiness for the Town's citizens; to support the high technology and information services industry; and to accommodate changes in business and domestic practices of the Town's citizens. Equally important, and with these regulations, the Town Council intends to preserve the sanctity, tranquility, value, appearance, and ambience of the Town's residential neighborhoods and residential units, and prevent, eliminate, or discontinue home-based businesses that negatively impact residents living near, around, or next to the site of the home-based business.
- (b) Zoning Inspection Permit Required
No home-based business shall be instituted or maintained until a Zoning Inspection Permit is approved pursuant to Section 78-202(J), *Zoning Inspection Permit*.
- (c) Standards

A home-based business is allowed as an accessory use in any dwelling unit in any zoning district, if it complies with the following standards:

1. *Prohibited Businesses*

A home-based business may consist of any lawful business except a business that involves:

- a. The on-site storage or presence of explosives; hazardous materials, hazardous substances, or hazardous waste; toxic substances; firearms; or any substance or activity that is determined to constitute a threat to the public health or safety of the Town, using the intent and standards of this section. (Nothing in this section shall affect or purport to regulate any power of any person given by general law of this Commonwealth to purchase, possess, transfer, own, carry or transport firearms, ammunition, or components of a combination thereof);
- b. The on-site provision of any service to clients or customers other than by appointment;
- c. The on-site sale of any goods, services, items, or property other than by appointment;
- d. An on-site restaurant, carry-out service, or any business involving preparation of food, except special occasion cakes;
- e. On-site servicing, repair or painting of motor or other vehicles, or any motorized equipment excluding small household appliances and personal computers;
- f. An animal hospital, kennel, or any other business involving the on-site care or feeding of animals;
- g. A boarding house or inn, or the like;
- h. A mortuary or funeral home, or the like;
- i. A delivery service by which goods or other property to be delivered are stored or brought on-site, excluding a business that involves the purchase, processing, and then delivery of goods or other property in a manner consistent with this section;
- j. A welding or machine shop or a pipe fitting operation, or the like;
- k. Rental of on-site equipment, on-site goods, or on-site property, or the like;
- l. Rental, use, dispatch, sale, or lease of a hearse, ambulance, wrecker or tow truck, taxi or limousine, only when such vehicle is brought to the site or to the vicinity of the site of the home-based business, with the exception that an individual may operate a taxi, or a standard passenger vehicle for hire as a home-based business, provided that only one such taxi or standard passenger vehicle may be present at or in the vicinity of the subject dwelling unit;
- m. A nursing home or the like; or
- n. Similar uses.

2. *Area Limitation*

A home-based business shall occupy no more than 33 percent of the floor area of the principal dwelling, up to a total maximum floor area of 1,000 square feet on any one property inclusive of floor area used in accessory structures. No home-based business conducted in an accessory building shall exceed 400 square feet, which area shall be included in the maximum square footage allowed in this section.

3. *Conduct of Business*
The home-based business must be conducted by an occupant of the dwelling that houses the business.
4. *Conduct Must not be in a Detached Accessory Structure*
Accessory structures shall not be used for home-based businesses unless expressly included in the application for the Zoning Inspection Permit.
5. *Conduct Must Be in Enclosed Building*
The home-based business including storage of equipment, goods, supplies, and property shall be conducted entirely within an enclosed building.
6. *Parking*
Parking of commercial vehicles associated with the home-based business shall comply with the standards of Section 78-402(F)(7)(c), *Parking of Commercial Vehicles*.
7. *Delivery Limitations*
The total number of arrivals for the purpose of making deliveries to or shipments from the home-based business shall not exceed four per day for dwelling units located on public streets and three per day for dwelling units located on private streets. Deliveries shall occur between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday. This section shall not apply to deliveries unrelated to the home-based business.
8. *Impacts Outside Property Boundaries*
The home-based business shall not cause or create noise; vibration; smoke; radiation; dust; odor; heat; glare; visible or audible interference in radio or television receivers; or fluctuations in line voltage that is perceptible across the property line or unit limits of the dwelling unit that serves as the site of the home-based business.
9. *Solid Waste*
The home-based business shall not cause an increase over normal residential use in the volume of solid waste disposal or frequency of refuse collection at the dwelling unit that is the site of the home-based business.
10. *Non-Resident Employees and Visitors for Businesses Other than Childcare or Daycare*
Other than for delivery persons allowed by paragraph (7) above, the practitioner of the home-based business may allow at the site of the home-based business at any one time between the hours of 8:00 a.m. and 9:00 p.m.:
 - a. the presence of up to two persons who do not reside in the dwelling unit and who are employees or associates of the home-based business;
 - b. Up to three customers or clients are allowed at the site for no more than two consecutive hours per day.
 - c. No more than four arrivals of non-resident persons who are employees, clients, customers, or associates of the home-based business shall occur during any 24 hour period.
11. *Inspection Upon Reasonable Notice*
The part of the dwelling unit used for the home-based business shall be open for inspection by representatives of the Town upon reasonable notice by the Town to the occupants of the dwelling unit.
12. *Incidental and Secondary to Residential Use*

A home-based business use may be conducted within a dwelling unit only so long as the home-based business use remains incidental and secondary to the use of the dwelling unit as a place of residence.

13. *Childcare or Daycare as a Home-Based Business*

- a. No more than five children enrolled in the Home-Based Childcare Center or Daycare Center shall be on the site at any one time, in addition to any children living in the home.
- b. Traffic
 - Other than for delivery persons allowed by paragraph (7) above, the practitioner of the home-based business may allow at the site of the home-based business at any one time between the hours of 6:00 a.m. and 9:00 p.m.:
 - i. the presence of up to one person who does not reside in the dwelling unit and who are employees or associates of the home-based business;
 - ii. Up to five customers or clients are allowed at the site at any one time;
 - iii. No more than 15 arrivals of non-resident persons who are employees, clients, customers, or associates of the home-based business shall occur during any 24 hour period.
- c. Play Area
 - i. 75 square feet of outdoor play area must be provided on-site per child enrolled in the childcare or day care business.
 - ii. Outdoor play area must be enclosed by a fence with a minimum height of four (4) feet unless applicant can demonstrate that the area provides adequate protection from traffic, neighboring yards or other hazards.
 - iii. Outdoor play area must be shown on a plat to scale submitted at the time of application for the permit.
 - iv. The requirement for an on-site outdoor play area may be waived when the applicant can demonstrate the home care service is located within 1,000 feet of an existing suitable play area, such as a park or play lot. The play area must be public or owned by the homeowners' association to which the residence belongs.

(d) *Special Exception*

The Town Council may approve by Special Exception a business conducted in a residential unit or in an accessory building or both when the use would not be consistent with the standards set forth in this section. The Town Council may impose conditions to assure that the business shall as nearly as practicable conform to the purposes of this section. Any such business use approved by a special exception conditional use permit shall be deemed a home-based business under this section, which shall apply to such home-based business with necessary changes.

(e) *Special Enforcement Provisions*

1. *Determinations Regarding Home-Based Businesses*

The Zoning Administrator shall determine if a home-based business is not, or is no longer, incidental and secondary to the use of the

dwelling unit as a place of residence if and when Town officers, Town employees, or nearby residents may hear, see, smell, or detect the existence of the home-based business use, to the degree it alters the residential character of the zoning district in which the home-based business is located. In making this determination, the Zoning Administrator shall rely on the intent sections of the respective zoning district regulations, the intent section of this section, and any public affidavits filed by residents.

2. *Growth or Change in the Home-Based Business*

It shall be the responsibility of the applicant to report changes needed to the terms of the original approval for the Home-Based Business, and to seek approval for the changes. If the Zoning Administrator determines that due to growth or change in the home-based business, or new information about the business, it no longer complies with the standards of this section, the Zoning Administrator may take action pursuant to Section 78-203, *Enforcement and Remedies*, including revoking the applicable Zoning Inspection Permit, if 30 days' written notice is provided the permittee or owner of the home-based business and the permittee or owner is given an opportunity to respond to the allegations of why the permit should be revoked at a hearing before the Zoning Administrator. Subsequently, upon revocation of a Zoning Inspection Permit for a home-based business, the permittee or owner shall cease the home-based business within 10 days after notice of revocation is delivered.

3. *Noncompliance*

If the person conducting the home-based business violates, or if the home-based business becomes in such conduct inconsistent with any provision of this article or other ordinance, law or regulation governing use of the dwelling for a home-based business, the zoning administrator may revoke the zoning inspection permit using the procedures set forth in paragraph 2 above.

4. *Equitable Enforcement Intended*

The Town Council intends and directs the Town Manager to enforce this section vigorously in residential communities benefited by community associations as well as in communities not so benefited.

5. *Legal Proceedings*

The town council approves the town attorney's institution and prosecution of legal proceedings deemed necessary or proper by the town attorney to protect the town's interest in the enforcement of this article and related provisions of this chapter. Within seven days after filing of such a legal proceeding, the town attorney shall confidentially inform the mayor and town council of the institution and basis of the legal proceeding. Failure to comply with this section shall not affect the validity of any legal proceeding. This approval shall not be exclusive. The town council may separately act on approval of any legal proceeding.

6. *Issuance of Business License*

The Director of Finance shall refuse to issue a business license to any person conducting a home-based business which the Zoning Administrator certifies is in violation of this section. If the Zoning Administrator later certifies to the Director of Finance that the home-based business has been brought into compliance with this section, the Director of Finance may issue a business license upon payment to the Town of all business license taxes, penalties, and interest due for the period in which the business was in operation.

7. *No Vested Rights Accrue*

No vested rights shall accrue to any person operating a home-based business that is approved because it will begin operation in conformance with the standards and requirements of this Chapter, but through growth, change, or other action becomes noncompliant with this section and this Chapter.

(12) Keeping of Livestock

Keeping, harboring or maintaining livestock of any weight or any age is prohibited. See also Herndon Town Code Section 6-3, *Keeping of Fowl*.

(13) Minor Utilities

A minor utility use shall comply with the following standards:

- (a) Be located within reasonable proximity of the area to be served.
- (b) In addition to the landscape and screening requirements in Article V, Development Standards, provide adequate setbacks, screening and buffering around the perimeter of the proposed use as deemed necessary by the Zoning Administrator to ensure land use compatibility with surrounding uses.

(14) Outdoor Seating Area of 25 Seats or Fewer, Accessory to an Enclosed Restaurant with Indoor Seating

Outdoor seating areas accessory to an established enclosed restaurant shall comply with the following standards:

- (a) The outdoor seating shall be limited to 25 seats or fewer, determined at a ratio of one outdoor seat for each five linear feet of restaurant building frontage.
- (b) There shall be no outdoor music or entertainment.
- (c) The outdoor seating shall be located on a private sidewalk or plaza area in such a manner so as to permit unobstructed pedestrian passage. Such passage shall meet all applicable code requirements as well as other standards established by the zoning administrator for safe and convenient pedestrian movement.
- (d) The outdoor seating shall not be located within a required parking area or on required open space.
- (e) The outdoor seating shall be confined to an area delineated on a plan approved by the zoning administrator.
- (f) A physical barrier, such as a wall, fence, planters or bollards may be installed to define the outdoor eating area. Such barriers shall be installed if the zoning administrator determines that it is necessary to contain the area.
- (g) Trash and debris shall be handled appropriately.
- (h) Outdoor eating facilities (tables and chairs) shall not be closer than 50 feet to a parcel zoned for residential use.
- (i) New nonresidential uses with outdoor components (e.g., restaurants with outdoor eating areas) located adjacent to existing residential uses shall limit their hours of operation to between 7:00 a.m. and 11:00 p.m.

(15) Outdoor Seating Area of more than 25 Seats, Accessory to an Enclosed Restaurant with Indoor Seating

Outdoor seating areas accessory to an established enclosed restaurant shall comply with the following standards:

- (a) Shall be allowed only by Special Exception as accessory to a restaurant in an enclosed structure. In approving the use, the Town may impose conditions relating to the location, configuration, and operational aspects of such outdoor seating area to ensure its compatibility with surrounding uses, its consistency

- with the layout of the restaurant, and its compliance with the Town's building codes and all relevant state laws and regulations.
- (b) The outdoor seating shall be limited one outdoor seat for each five linear feet of restaurant building frontage.
 - (c) There shall be no outdoor music or entertainment.
 - (d) The outdoor seating shall be located on a private sidewalk or plaza area in such a manner so as to permit unobstructed pedestrian passage. Such passage shall meet all applicable code requirements as well as other standards established by the zoning administrator for safe and convenient pedestrian movement.
 - (e) The outdoor seating shall not be located within a required parking area or on required open space.
 - (f) The outdoor seating shall be confined to an area delineated on a plan approved by the zoning administrator.
 - (g) A physical barrier, such as a wall, fence, planters or bollards may be installed to define the outdoor eating area. Such barriers shall be installed if the zoning administrator determines that it is necessary to contain the area.
 - (h) Trash and debris shall be handled appropriately.
 - (i) Outdoor eating facilities (tables and chairs) shall not be closer than 50 feet to a parcel zoned for residential use.
 - (j) New nonresidential uses with outdoor components (e.g., restaurants with outdoor eating areas) located adjacent to existing residential uses shall limit their hours of operation to between 7:00 a.m. and 11:00 p.m.

(16) Outdoor Storage as an Accessory Use

Other than vehicle sales and service, outdoor storage, including parking of fleet vehicles, may be allowed as an accessory use as shown Section 78-402(C)(3), *Table of Permitted and Allowed Accessory Uses*. The storage area shall meet all of the following standards:

- (a) Each outdoor storage area shall be incorporated into the overall design of the primary structure on the site and shall be located at the rear of the primary structure.
- (b) Goods, other than fleet vehicles, stored in an outdoor storage area shall be limited to those sold on the premises as part of an associated, additional primary use.
- (c) Each outdoor storage area shall be screened in accordance with Section 78-503(G), Additional Screening Requirements for Certain Features.
- (d) If the outdoor storage area is covered, then the covering shall include at least one of the predominant exposed roofing colors on the primary structure.
- (e) Flammable liquids or gases in excess of 1,000 gallons shall be stored underground.
- (f) No materials may be stored in areas intended for vehicular or pedestrian circulation.
- (g) If installed, exterior lighting shall meet the functional needs of the establishment without adversely affecting adjacent properties or the neighborhood.

(17) Outdoor Display of Products for Sale

An area of designated size used for the display of seasonal merchandise or tangible property normally sold within the contiguous business or organization is permitted in the Central Commercial District, the Planned Development - Downtown District, and

the Commercial Service District as long as the display area, including any structures and products:

- (a) Does not block access to the building or otherwise impair circulation and safety;
- (b) Is located outside of the public right-of-way unless it is the subject of an approved application for a license to use the public right-of-way;
- (c) Does not serve as simply as storage for products that cannot be stored elsewhere on the site;
- (d) Does not include durable goods such as furniture, carpets and large household appliances; and
- (e) Must be shown on an original site plan or site plan amendment, certificate of appropriateness, temporary use site plan, license to use the public right-of-way, or other permit as may be applicable to the circumstances of the business seeking the outdoor display.

(18) Parapets, Penthouses for Equipment, Flagpoles, Chimneys, Skylights, Steeples and Other Roof Structures

Parapets, penthouses for equipment such as elevators, stairways, tanks, ventilating fans or similar equipment required to operate and maintain the building, flagpoles, chimneys, skylights, steeples and other roof structures are permitted as accessory uses to the principal structure and:

- (a) Shall not be used for providing additional floor area;
- (b) Shall be concealed by exterior material of the same type as that used in the exterior walls of the principal structure;
- (c) Shall not exceed 25 feet over the prescribed height limit in the zoning district in which the principal structure is located; and
- (d) Equipment noise shall be contained or managed so as to minimize its off-site effect.

(19) Recreational vehicles

- (a) Except in approved storage yards as permitted in Section 78-401(R), *Self-Service Storage* use category, Section 78-402(G)(15)(16), *Outdoor Storage as an Accessory Use*, or similar approved uses, the parking of recreational vehicles for over 12 hours is prohibited in commercial and industrial zones.
- (b) Recreational vehicle parking is permitted in residential districts in accordance with Section 78-500(C)(7), Parking in Residential Districts. ~~only behind the front setback line of the main building. In multifamily districts, recreational vehicles shall be parked only in designated community parking areas which have been approved for such use by the zoning administrator in writing. Designated community parking areas shall be in harmony with their surroundings, adequately screened, no closer than 200 feet to any public right-of-way and should not adversely affect adjacent owners' enjoyment of their properties and/or their property values.~~
- (c) Recreational vehicles shall not be used for either temporary or permanent human occupancy while parked within the town limits.

(20) School Uses in Conjunction with Religious Institutions

All schools developed in conjunction with a religious institution shall:

- (a) Comply with standards in Section 78-401(C) for education;

1 **78-403 TEMPORARY USES AND STRUCTURES**

2 **(A) Purpose**

3 This Section allows for the establishment of certain temporary uses provided that such uses
4 are discontinued upon the expiration of the set time period. Temporary uses do not involve
5 the construction or alteration of any permanent building or structure.

6 **(B) Table of Allowed Temporary Uses and Structures**

7 Table 78-403(B), *Table of Allowed Temporary Uses and Structures*, summarizes the
8 temporary uses and structures that are allowed within the Town and any general or specific
9 standards that apply. ~~Temporary uses or structures not listed in table 78-403(B) are not~~
10 ~~allowed by this Chapter.~~ Where a proposed temporary use is not specifically listed in this
11 section, the Zoning Administrator may allow the proposed temporary use without a permit
12 upon finding the standards of this section are met. The request shall be treated as an
13 Interpretation pursuant to Section 78-202(L), Determinations. The Zoning Administrator shall
14 give due consideration to the intent of this Chapter concerning the zoning district(s) involved,
15 the character of the temporary uses listed in this Chapter, and the character of the use(s) in
16 question. Based on these considerations, the Zoning Administrator may find that the
17 proposed temporary use is not permitted, or that a temporary use permit is required.

1

TABLE 78-403(B): TABLE OF ALLOWED TEMPORARY USES AND STRUCTURES		
<u>TEMPORARY USE OR STRUCTURE</u>	<u>ALLOW-ABLE TIME FRAME</u>	<u>SPECIFIC REGULATIONS</u>
<u>NO PERMIT REQUIRED</u>		
<u>Garage Sales, Yard Sales, Estate Sales</u>	<u>Such uses are limited to no more than 2 consecutive days per use, and no more than four occurrences per parcel per year.</u>	
<u>Temporary Vehicle washes by Civic and Nonprofit Organizations, or by middle and secondary school groups</u>	<u>Such uses are limited to no more than 2 consecutive days per use, and no more than four occurrences per parcel per year.</u>	
<u>Sidewalk Sales: Civic and Nonprofit Organizations</u>	<u>Such sales are limited to a maximum of 4 days per calendar year with no more than four occurrences per parcel per year.</u>	<u>see Section 78-403(D)(1)</u>
<u>Temporary Uses on Town Property</u>	<u>Approval by the Town Manager required</u>	<u>see Section 78-403(D)(2)</u>
<u>Temporary Parking for Special Events</u>	<u>Such uses are limited to a maximum of 4 days per event with a maximum of three occurrences per parcel per year.</u>	<u>see Section 78-403(D)(3)</u>
<u>Portable Storage Units on-site for up to 16 days</u>	<u>No more than two occurrences per address per year with a maximum of 16 days per occurrence.</u>	<u>see Section 78-403(D)(4)</u>
<u>Roll-off dumpsters used on residential properties</u>		<u>see Section 78-403(D)(5)</u>
<u>PERMIT REQUIRED</u>		
<u>Temporary Office Facilities (including Real Estate Sales Offices)</u>	<u>Such structures and uses may be in place for no more than one to three years.</u>	<u>see Section 78-403(G)(1)</u>
<u>Construction-related Activities (including Construction Trailers and employee parking)</u>	<u>Such structures and uses may be in place for no more than one to three years.</u>	<u>see Section 78-403(G)(2)</u>
<u>Outdoor Retail Sales Events Associated with an Existing Business</u>	<u>Such sales are limited to a maximum of 4 days per calendar year with no more than four occurrences per parcel per year.</u>	<u>see Section 78-403(G)(3)</u>
<u>Seasonal Sales (Christmas Trees, Halloween Pumpkins, Civic Group Merchandise)</u>	<u>Such uses are limited to a maximum of 90 days per calendar year with no more than 30 days per occurrence, or three occurrences per parcel per year.</u>	<u>see Section 78-403(G)(4)</u>
<u>Seasonal Sales (Fireworks)</u>	<u>Such sales are limited to a maximum of 30 days per calendar year with no more than one occurrence per parcel per year.</u>	<u>see Section 78-403(G)(4)</u>
<u>Special Events (i.e., Fairs, Festivals, or Similar Outdoor</u>	<u>Such uses are limited to a maximum of 4 days per event with a maximum of three occurrences per parcel per</u>	<u>see Section 78-403(G)(5)</u>

TABLE 78-403(B): TABLE OF ALLOWED TEMPORARY USES AND STRUCTURES		
TEMPORARY USE OR STRUCTURE	ALLOW-ABLE TIME FRAME	SPECIFIC REGULATIONS
<u>Events)</u>	<u>year.</u>	
<u>Temporary Assembly Site for Day Workers</u>	<u>Permitted initially for not more than two years after the date of town council approval, with up to three one-year extensions granted by town council. No further extensions will be granted for such use on same site.</u>	<u>see Section 78-403(G)(6)</u>

1

2

TABLE 78-403(B): TABLE OF ALLOWED TEMPORARY USES AND STRUCTURES		
TEMPORARY USE OR STRUCTURE	ALLOW-ABLE TIME FRAME	SPECIFIC REGULATIONS
TEMPORARY STRUCTURES REQUIRING A PERMIT		
Use of Motor Vehicle, Trailer, Recreational Vehicle (RV), Tent, or Shipping Container for Sales, Service, Storage, or Other Business (other than Temporary Office Facilities)	(D)	Permit Required; see Section 78-403(H)(1)
Temporary Office Facilities (including Real Estate Sales Offices)	(A)	Permit Required; see Section 78-403(H)(3)
Construction-related Activities (including Construction Trailers and employee parking)	(A)	Permit Required; see Section 78-403(H)(4)
TEMPORARY SALES REQUIRING A PERMIT		
Outdoor Retail Sales Events	(B)	Permit Required; see Section 78-403(H)(5)
Seasonal Sales (Christmas Trees, Halloween Pumpkins)	(D)	Permit Required; see Section 78-403(H)(6)
Seasonal Sales (Fireworks)	(C)	Permit Required; see Section 78-403(H)(7)
TEMPORARY USES REQUIRING A PERMIT		
Temporary Uses on Town Property	N/A	No Zoning Permit Required; Approval by the Town Manager required.
Other Special Events (i.e., Fairs, Festivals, or Similar Outdoor Events)	(F)	Permit Required; see Section 78-403(H)(8)
Temporary Assembly Site for Day Workers	(G)	Permit Required; see Section 78-403(H)(9)
NO PERMIT REQUIRED		
Certain Special Events (on the premises of a residence or at a facility intended to accommodate special events)	(E)	No Temporary Use Permit Required; see Section 403(E)(11).
Garage Sales, Yard Sales, Estate Sales	(E)	No Temporary Use Permit Required
Portable Storage Units on-site for up to 16 days	(H)	No Temporary Use Permit Required; see Section 78-403(4).
Roll-off dumpsters used on residential properties	(I)	No Temporary Use Permit Required; see Section 78-403(5).
Sales: Civic and Nonprofit Organizations	N/A	No Temporary Use Permit Required
Temporary Vehicle washes by Civic and Nonprofit Organizations	(E)	No Temporary Use Permit Required; see Section 78-403(E)(1)
Temporary Parking for Special Events	(F)	No Temporary Use Permit Required
(A) Such structures and uses may be in place for no more than one to three years.		
(B) Such sales are limited to a maximum of 4 days per calendar year with no more than four occurrences per parcel per year.		
(C) Such sales are limited to a maximum of 30 days per calendar year with no more than one occurrence per parcel per		

TABLE 78-403(B): TABLE OF ALLOWED TEMPORARY USES AND STRUCTURES

TEMPORARY USE OR STRUCTURE	ALLOW- ABLE TIME FRAME	SPECIFIC REGULATIONS
year.		
(D) Such uses are limited to a maximum of 90 days per calendar year with no more than 30 days per occurrence, or three occurrences per parcel per year.		
(E) Such uses are limited to no more than 2 consecutive days per use, and no more than four occurrences per parcel per year.		
(F) Such uses are limited to a maximum of 4 days per event with a maximum of three occurrences per parcel per year.		
(G) Permitted initially for not more than two years after the date of town council approval, with up to three one-year extensions granted by town council possible. No further extensions will be granted for such use on same site.		
(H) No more than two occurrences per address per year with a maximum of 16 days per occurrence.		
(I) No more than one occurrence per address per year for a maximum of 16 days per occurrence, unless used in conjunction with a Building Permit for approved construction, remodeling, demolition, or redevelopment.		

(C) Temporary Use Permits

(1) Procedure

All temporary uses and structures required to obtain a Temporary Use Permit pursuant to Table 78-403(B), *Table of Allowed Temporary Uses and Structures*, shall obtain the permit pursuant to the procedures set forth in Section 78-202(F)(3)(f), *Temporary Use Site Plan Permit*. A temporary use permit shall be reviewed, approved, or revoked in accordance with the standards of this Chapter.

(2) Expiration

A Temporary Use Permit shall be effective beginning on the date specified in the permit approval, and shall remain effective for the period indicated on the permit, not to exceed the period allowed for the particular type of use as specified in Section 78-403, *Temporary Uses and Structures*.

(3) Revocation

The zoning administrator may revoke a temporary use permit at anytime subsequent to the failure of the owner or operator of the permitted use to observe requirements of the law with respect to the maintenance and conduct of the use, and conditions of the permit that were designated by the zoning administrator when issued. Upon receipt of notice of revocation of the permit, the property owner or operator of such activity shall cease operation of the activity immediately. Such provisions shall not be deemed to preclude the use of any other remedy prescribed by law with respect to violations of the provisions of this division.

(4) Waiver

The Zoning Administrator may waive any requirements of this section in specific cases where such requirement is found to be unreasonable and such waiver will not be adverse to the intent of this Chapter.

(5) Amendment

A Temporary Use Permit may be amended, extended, or modified in accordance with the procedures and standards established for its original approval.

(D) No Temporary Use Permit Required

~~Certain Events and Activities~~

The following events or activities may occur without a temporary use permit, provided that any one activity occurs no more than four times per calendar year at the same site. Such activities are subject to all other applicable procedures and standards of this Chapter.

- (1) Sidewalk sales of cookies, candy, baked goods, or similar small items by civic or nonprofit organizations on commercial properties in areas devoted to pedestrian use provided that:
 - (a) A safe and adequate passageway for pedestrians is maintained during the event;
 - (b) The activity is limited to eight hours per day; and
 - (c) All tables, chairs and other furniture or equipment associated with the event are secured overnight.
- (2) Temporary uses located on Town rights-of-way or Town property shall be approved by the Town Manager.
- (3) Temporary parking for events lasting up to four days, subject to prior approval from the Town of Herndon Police Department. If the use is to utilize off-site parking, the following information must be submitted to the zoning administrator:
 - (a) A letter of consent from the property owner or legal agent of the property to be used; and
 - (b) A description of how attendees will access safely the temporary use from the off-site parking.
- (4) Portable Storage Unit on-site for up to 16 days
A property owner or tenant may rent and use a portable storage unit on residential property in accordance with provisions in ~~this~~ section 78-403, and when the following conditions are met:
 - (a) The unit is no larger than eight feet by eight feet by sixteen feet.
 - (b) There are no more than two portable storage units for any address at any one time.
 - (c) The portable storage unit is used only for the temporary storage of household goods and related items. The portable storage unit may not be used for construction materials or waste.
 - (d) The portable storage is not placed on the property as an accessory structure.
 - (e) The portable storage unit is placed on an impervious surface.
 - (f) On duplex, townhouse, quadruplex, or multi-family properties, placement of the unit must be approved by an appropriate management or ownership entity to ensure safe and convenient access to required parking spaces, driveways, and pedestrian pathways and to ensure that the unit does not obstruct emergency access or infringe on required landscaped areas.
 - (g) The Department of Community Development is notified at least one business day prior to placing the unit on the site.
- (5) Roll-off Dumpster on Residential Property
A property owner or tenant may rent and use a roll-off dumpster on residential property in accordance with provisions in ~~this~~ of section 78-403, and when the following conditions are met:
 - (a) The Department of Community Development is notified at least one business day prior to placing the unit on the site.
 - (b) The unit is placed on the site for the allowable time frame specified in Table 78-403(D)(5).
 - (c) The unit has a maximum capacity of 30 cubic yards, or is no larger than eight feet by eight feet by sixteen feet.
 - (d) The dumpster is used only for disposal of acceptable waste. ~~It shall not be used for household hazardous waste and other inappropriate products.~~
Examples of waste that are not acceptable include refrigerators, a/c units,

tires, batteries, car parts, hazardous waste, gas and propane tanks, dirt, rock, concrete, roofing, railroad ties, and other high density materials.

- (e) On duplex, townhouse, quadruplex, or multi-family properties, placement of the unit must be approved by an appropriate management or ownership entity to ensure safe and convenient access to required parking spaces, driveways, and pedestrian pathways and to ensure that the unit does not obstruct emergency access or infringe on required landscaped areas.

Table 78-403(D)(5), Allowable Time Frame for Roll-Off Dumpsters on Residential Property

	<u>for site improvements that require:</u>	<u>allowable time frame for initial occurrence</u>	<u>extension of time, per occurrence</u>	<u>maximum duration, for all occurrences combined</u>	<u>other requirements</u>
a.	<u>no building permit</u>	<u>2 consecutive weeks</u>	<u>none</u>	<u>4 weeks within any calendar year</u>	
b.	<u>building permit only</u>	<u>6 consecutive weeks</u>		<u>12 weeks within any calendar year</u>	
c.	<u>building permit and building location survey</u>	<u>8 consecutive weeks</u>		<u>16 weeks within any calendar year</u>	
d.	<u>building permit and single lot development plan</u>	<u>10 consecutive months</u>	<u>2 months</u>	<u>12 months</u>	<u>two extensions permitted; each extension of time is subject to approval by the zoning administrator based upon: (i) a written request by the property owner indicating why the additional time is required, and (ii) upon an inspection of the site by the Zoning Administrator to determine whether or not the dumpster appears to be creating any off-site nuisances, such as but not limited to odors and insects.</u>
e.	<u>building permit and an approved subdivision site plan</u>	<u>10 consecutive months</u>	<u>yes</u>	<u>no limit</u>	<u>extension of time is subject to approval by the zoning administrator based upon: (i) a written request by the property owner indicating why the additional time is required, and (ii) upon an inspection of the site by the Zoning Administrator to determine whether or not the dumpster appears to be creating any off-site nuisances, such as but not limited to odors and insects.</u>

1
2
3

~~No signs shall be permitted in the public right-of-way for any temporary use, whether or not a permit is required.~~

(E) Prohibited Temporary Uses in Public Rights of Way and on Other Town Property

Retail sales or display of goods, products, or services and any associated signage within the public right-of-way or on other Town property is prohibited except as part of a Town-recognized event or as authorized by the Town Manager. See also the Herndon Town Code, Section 66-1, Obstructing Streets and Sidewalks.

(F) General Standards for All Temporary Uses and Structures ~~That Require a Permit~~

All temporary uses and structures shall meet the following general requirements, unless otherwise specified in this Chapter:

- (1) The temporary use shall not be detrimental to property or improvements in the surrounding area or to the public health, safety, or general welfare. There shall be no damage to public or private property beyond normal wear or tear. There shall be no unusual risk of injury to persons.
- (2) The temporary use shall not have substantial adverse or noise impacts on nearby residential uses or neighborhoods. There shall be no public or private disturbances or nuisances. All temporary uses or events that include the operation of amplified sound shall obtain approval as required by Article V, Chapter 26 of the Herndon Town Code.
- (3) There shall be no unsafe impediments or distractions to, or congestion of, vehicular or pedestrian travel.
- (4) The applicant shall arrange for any security police, fire, trash removal, maintenance, or other public services the event, use or structure may require.
- (5) Permanent alterations to the site are prohibited.
- (6) If the property is developed, the site of the temporary use shall contain an area that supports the temporary use without encroaching into or creating a negative impact on existing buffers, open space, landscaping, pedestrian and vehicular traffic movements (including emergency vehicle access), and parking space availability. Portions of on-site parking areas may be used for the temporary use provided emergency access remains available and the applicant demonstrates that parking will be sufficient for the permanent uses as well as the temporary use. Permanent on-site lighting shall be available in proximity to ensure the safe operation of the temporary use.
- (7) If the property is undeveloped, the site of the temporary use shall contain sufficient land area to allow the temporary use to occur, as well as any parking and traffic movement that may be associated with the temporary use, without disturbing sensitive or protected resources, including required buffers.
- (8) Any temporary structures, including tents, shall be located so as to not interfere with the normal operations of any permanent use located on the property and so as to maintain adequate parking availability on the site while the temporary use is in place.
- (9) The temporary use shall not violate any applicable conditions of approval that apply to the principal use on the site.
- (10) All temporary uses shall be provided convenient off-street parking spaces in sufficient number for the use, as determined by the Zoning Administrator with reference to the requirements of Section 78-500, Off-street Parking and Loading Standards. Notwithstanding other requirements of this Section, such parking may be located off-site. In addition, all off-street parking shall occur on paved or graveled surfaces. Any parking surface added for the temporary use shall be removed within 30 days of the termination of the temporary use.
- (11) Notwithstanding other regulations governing signs in this Chapter, the Zoning Administrator may approve no more than two signs for each temporary use with a maximum combined area of not more than 50 square feet, which shall be displayed only during the period approved for the temporary use. All approved temporary signs

associated with the temporary use shall be removed when the activity ends. No signs associated with the temporary use or activity shall be permitted in the public right-of-way.

- (12) Unless otherwise specified in this section, the hours of operation shall be limited to between 9:00 a.m. to 7:00 p.m.; provided, however, that based upon a lighting plan submitted by the applicant, the Zoning Administrator may approve additional evening hours, but in no event shall a temporary use operate after 11:00 p.m. If permanently-installed lighting is not available in proximity to ensure the safe operation of the temporary use, the Zoning Administrator may restrict operation of the temporary use to day light hours.
- (13) All inspections and permits required by applicable construction codes shall have been approved and passed.
- (14) In no event shall the Town issue a permit for a temporary use ~~be issued~~ for a parcel or property already subject to five temporary use permits for five events, respectively, within a single calendar year.
- (15) Structures and features associated with the temporary use shall be dismantled and the site shall be returned within 48 hours to its condition prior to the establishment of the temporary use. Failure to comply with this requirement may cause the Town to restore the site at the expense of the property owner and the address shall be prohibited from obtaining another temporary use permit for three years.
- (16) If determined necessary by the Zoning Administrator to ensure the public health, safety or welfare, the applicant shall submit a performance bond or other financial guarantee to ensure that any temporary facilities or structures used for such proposed temporary use will be removed from the site within a reasonable time following the event and that the property will be restored to its former condition.

(G) Specific Standards for Certain Temporary Uses and Structures

In addition to the general standards for all temporary uses described in Section 78-403(F), *General Standards for All Temporary Uses and Structures That Require a Permit*, certain temporary uses shall also be required to meet the following requirements.

(1) Temporary Office Facilities

Temporary facilities used as sales/leasing offices, including those located in a model unit of a residential project, or used during construction to expand or replace a permanent building, may be permitted on the same site as the permanent use. Sales offices may be established for pre-sales or leasing prior to construction of the project.

- (a) Such temporary offices may remain on the site for up to 12 months. This period may be renewed for two twelve-month¹ periods, for good cause shown, upon approval of a written request, submitted to the Zoning Administrator 30 days prior to the expiration of the permit. In no event, however, shall such extensions allow the temporary use to remain on the site for more than three years.
- (b) In addition, all buildings approved pursuant to this Section shall meet the following requirements:
1. Such structures may be located anywhere on site, except within existing vegetated buffers or other areas designated on the site plan to remain free from land disturbance.
 2. Other Requirements:

- i. The temporary structure shall be factory-fabricated and transportable.
- ii. Under-skirting shall be installed around all temporary structures requiring site plan approval.
- iii. All permits required by applicable building, electrical, plumbing, and mechanical codes shall be obtained from the Building Official prior to installation of the temporary structure.
- iv. The structure shall be maintained in good condition.

(2) Construction-related Activities

(a) On-site

Temporary construction-related activities, including construction offices, indoor and outdoor storage, fencing, portable toilets and parking may occur on the same site as the construction project without obtaining a Temporary Use Permit. Such uses shall not begin prior to approval of a site plan, subdivision site plan or single lot development plan ~~issuance of a building permit~~ for the construction project and shall be removed within 30 days after termination of the building permit or issuance of a final certificate of occupancy.

(b) Off-site

1. Temporary construction-related activities may be located on a site that is nearby the construction site with approval of a Temporary Use Permit. Such uses shall not begin prior to approval of a site plan, subdivision site plan or single lot development plan ~~issuance of a building permit~~ for the construction project and shall be removed within 30 days after termination of the building permit or issuance a final certificate of occupancy. The site shall be restored to its previous condition.
2. Such temporary activities may remain on the site for up to 12 months. This period may be renewed for two ~~twelve~~ 12-month periods, for good cause shown, upon approval of a written request, submitted to the Zoning Administrator 30 days prior to the expiration of the permit. In no event, however, shall such extensions allow these temporary activities to remain on the site for more than three years.

(3) Outdoor Retail Sales Events Associated with an Existing Business

(a) An outdoor retail sales event shall take place on ~~an improved or developed~~ an improved or developed site where the principal use is retail sales, or on an immediately adjacent ~~developed out-parcel of such a site.~~

(b) Outdoor retail sales events shall be conducted by and clearly associated with an existing retail business which has been reviewed and approved for compliance with the provisions of this Chapter, and for which there are no outstanding violations of this Chapter.

(c) An outdoor retail sales event associated with an individual business, shopping center, or site shall be limited in scope to similar or complementary products, goods, and/or services to those offered by the existing principal use(s) located upon the same site. The temporary sale of ~~non-agricultural~~ products, goods, and/or services that differ from the normal range of those offered by an existing principal use(s) shall be prohibited.

(d) The proposed display and/or sale of goods, products and/or services during an outdoor retail sales event may not occur within 200 feet of an occupied residential dwelling unit.

(e) Sidewalk and parking lot sales, located on the same site as the merchant's permanent place of business, may not impede or obstruct safe pedestrian and vehicular circulation.

(4) **Seasonal Sales**

Notwithstanding the specific use regulations of the individual commercial and industrial zoning districts enumerated in this chapter, the following uses may be permitted on a temporary basis when such uses are in conformance with the regulations of Section 78-403 Temporary Uses and Structures and (i) on property located within any commercial or industrial zoning district; or (ii) on the property of non-residential special exception uses located in residential districts: ~~when such uses are (i) in conformance with the regulations of this subdivision;~~

- (a) Temporary retail sales stands limited to the primary sale of Christmas trees,
- (b) Halloween pumpkins,
- (c) Fireworks, and
- (d) Civic or nonprofit group merchandise, ~~with the sale of accessory items clearly secondary to the primary items.~~ For the purpose of this section the term "civic or nonprofit group" shall include any organization that meets regularly in the town or which has "Herndon" or a town location in its name, and which has demonstrated service to the town.

(5) **Other Special Events Requiring a Temporary Use Permit**

~~The procedures and standards of this section shall apply to~~ Temporary special events lasting no more than four days, including but not limited to cultural events, musical events, celebrations, festivals, fairs, carnivals, circuses, and communal camping held on private property within the Town, ~~unless exempted pursuant to Section 78-403(D), No Temporary Use Permit Required,~~ shall comply with the following standards:

- (a) The proposed special event shall not be of such a nature, size, or duration that the particular location requested cannot reasonably accommodate the event.
- (b) The proposed special event shall not be at a time and location that has already been permitted or reserved for other activities in the same location.
- (c) In approving the Temporary Use Permit for the special event, the Zoning Administrator is authorized to impose such conditions upon the premises benefited by the permit as may be necessary to reduce or minimize any potential adverse impacts upon other property in the area, as long as the condition relates to a situation created or aggravated by the proposed special event. The Zoning Administrator is authorized, where appropriate, to require:
 - 1. Provision of temporary parking facilities, including vehicular access and egress.
 - 2. Control of nuisance factors, such as but not limited to, the prevention of glare or direct illumination of adjacent properties, noise, vibrations, smoke, dust, dirt, odors, gases, and heat.
 - 3. Regulation of temporary buildings, structures and facilities, including placement, height and size, location of equipment and open spaces, including buffer areas and other yards.
 - 4. Provision of sanitary and medical facilities.
 - 5. Provision of solid waste collection and disposal.
 - 6. Provision of security and safety measures, including lighting if the temporary use is in operation after day light hours
 - 7. Use of an alternative location or date for the proposed temporary use.
 - 8. Amendment or elimination of certain proposed activities.
 - 9. Regulation of operating hours and days, including limitation of the duration of the temporary use to a shorter time period than that requested or specified in this Section.
- (d) A Temporary Use Permit for a special event authorized pursuant to this section shall be limited to a maximum duration of 4 days, with a maximum of

three occurrences per parcel per years, unless otherwise specifically authorized by the Zoning Administrator.

(6) Temporary assembly site for day workers

A temporary assembly site for day workers must conform to all of the following conditions, in addition to any specifically imposed conditions.

- (a)** The use shall be permitted by special exception for not more than two years after the date of town council approval, with up to three one-year extensions granted by town council possible. No further extensions will be granted for such use on same site.
- (b)** No more than one assembly site, whether formal or informal, shall be permitted in the town.
- (c)** Size and Location:
 - 1. The area of operation on the site shall be defined in the special exception ~~conditional use permit~~ application, and the operations shall be confined to the defined area.
 - 2. No lot or parcel on which is located the site shall be less than one acre in size. The site may occupy all or part of the lot or parcel.
- (d)** Site Management
 - 1. The maximum number of workers to be present on the site at any one time shall be set forth in the special exception ~~conditional use permit~~ application. The number of parking spaces and bicycle racks, the vehicular circulation system, and the size of the facilities shall accommodate this maximum number.
 - 2. Written operating procedures governing the site shall be submitted as part of the special exception ~~conditional use permit~~ application and made a part of the conditions of this special exception ~~conditional use permit~~. Among other operating procedures the hours of operation of the site shall be set forth.
 - 3. The site, and any buildings or structures on the site shall be maintained in good order, free from litter or trash, and in a presentable, well maintained and safe manner, as determined by the zoning administrator using recognized standards.
 - 4. All activities conducted on the site shall be carried out in a lawful manner, as determined by competent town, Virginia, or federal authorities. Nothing in this subparagraph shall be construed to suggest or require that the zoning administrator enforce any set of laws other than the town's zoning ordinance.
 - 5. Sufficient staff shall be provided to control activities during operation of the site.
 - 6. No more than one mobile commercial food vendor shall operate at or on the site at any one time. This vendor may be present at the site only during operating hours of the site.
- (e)** Site Features
 - 1. Shelter from the elements, potable water and toilets for the workers may be provided. Temporary, modular, or manufactured units may be permitted. There must be approval of the architectural review board of all architectural features of all buildings or structures prior to installation on the site.
 - 2. A gravel, concrete, asphalt milling, or asphalt surface shall be required for all vehicular and pedestrian circulation areas. The surface materials shall be as specified by the town council.
 - 3. Screening shall be provided on any side of the site adjacent to any property zoned or used for residential purposes.